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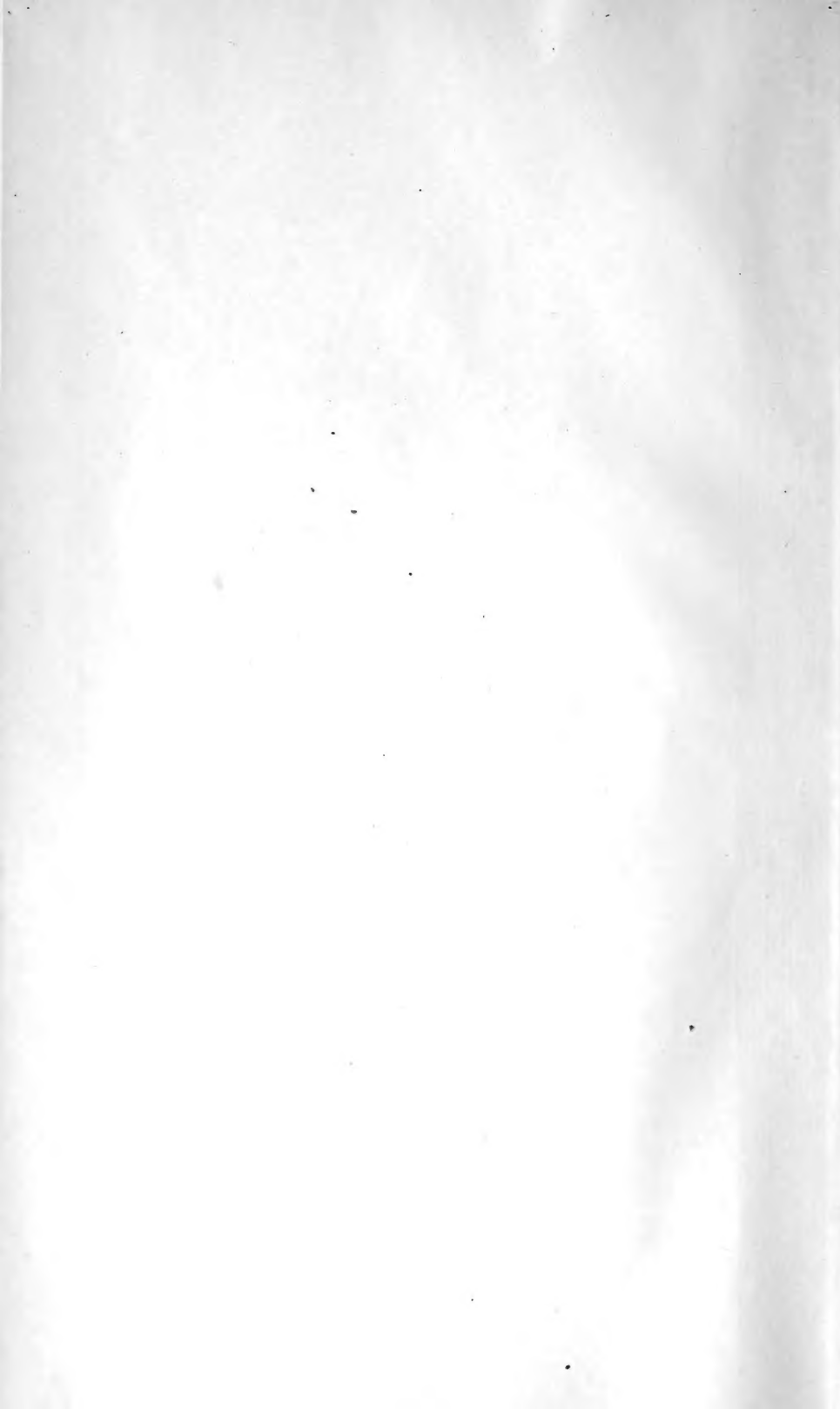
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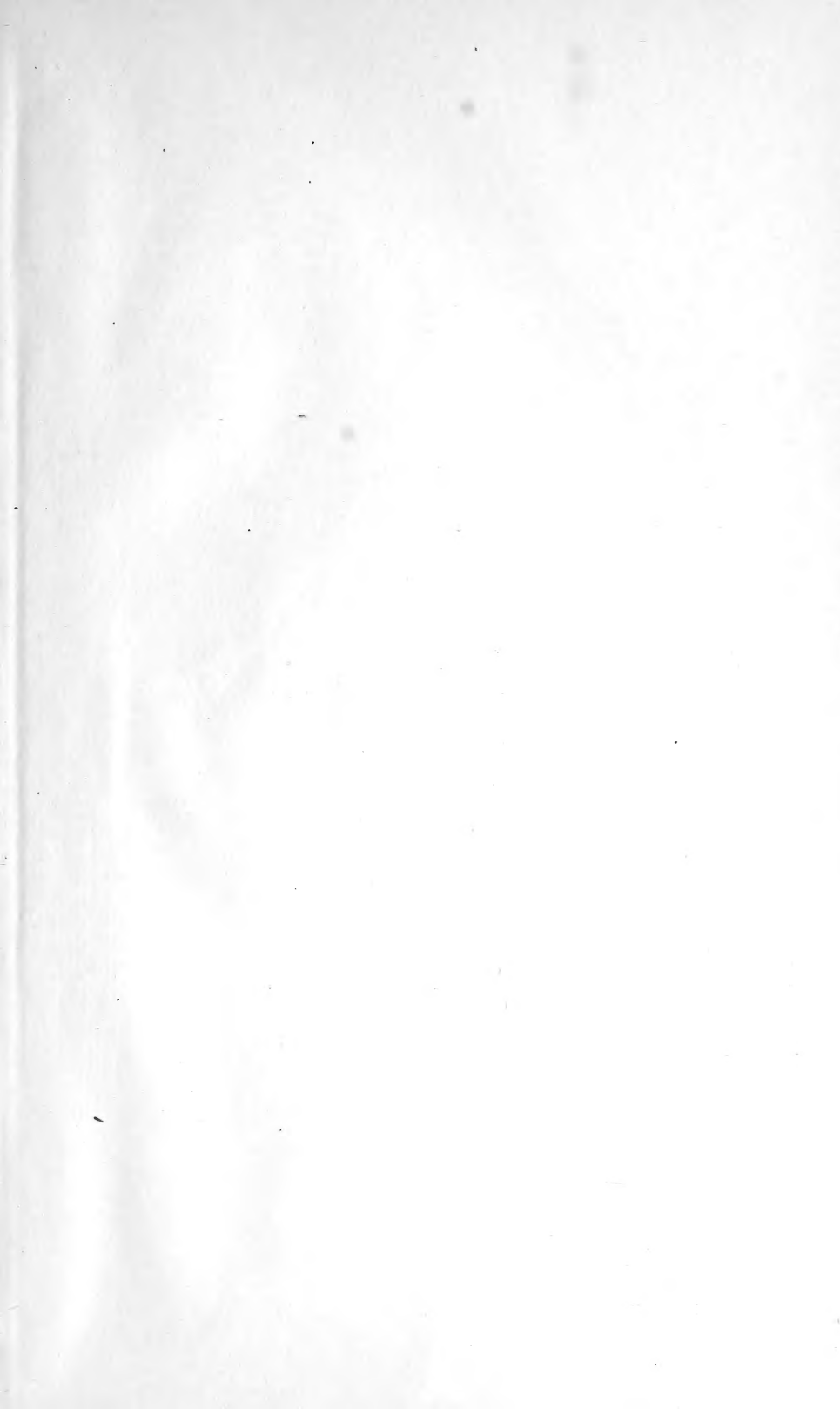
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1911





HEARINGS

BEFORE THE

U.S. Cong. House.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE OF THE HOUSE OF REPRESENTATIVES

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ON THE BILLS

H. R. 20373 AND H. R. 29163

ADULTERATION AND MISBRANDING OF SEEDS, BULBS, ETC.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

HOUSE OF REPRESENTATIVES

JAMES R. MANN, ILLINOIS, *Chairman.*

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FREDERICK C. STEVENS, MINNESOTA.
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ADULTERATION AND MISBRANDING OF SEEDS, BULBS, ETC.

COMMITTEE ON INTERSTATE AND
FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
Thursday, February 2, 1911.

The committee met at 10 o'clock a. m., Hon. James R. Mann (chairman) presiding.

The CHAIRMAN. The committee will be in order. We have before us House bill 20373 and House bill 29163—House bill 20373 to prohibit the importation into the United States of adulterated seed and seed unfit for planting, and House bill 29163 to regulate commerce among the States and with foreign nations, and to prevent the transportation of adulterated and misbranded seed and bulbs, and for other purposes. For the sake of convenience the two bills may be printed in the record.

[H. R. 20373, Sixty-first Congress, second session.]

A BILL To prohibit the importation into the United States of adulterated seed and seed unfit for planting.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the importation into the United States of seeds of alfalfa, barley, Canadian blue grass, Kentucky blue grass, brome grass (awnless), buckwheat, alsike clover, crimson clover, red clover, white clover, field corn, Kafir corn, meadow fescue, flax, millet, oats, orchard grass, rape, redtop, rye, sorghum, timothy, and wheat which are adulterated or unfit for seeding purposes within the meaning of this act is hereby prohibited, and the Secretary of Agriculture and the Secretary of the Treasury shall jointly or severally make such rules and regulations as will provide for the exclusion of such seeds from the United States: *Provided,* That such seeds may be delivered to the owner thereof under bond, to be recleaned, subject to such regulations as the Secretary of the Treasury may provide, and when recleaned to the standard of purity specified in sections two and three of this act they may be released to the owner thereof, but the screenings removed from such seeds must be disposed of in a manner to be prescribed by the Secretary of Agriculture.

SEC. 2. Seed shall be considered adulterated within the meaning of this act: First, when seed of red clover contains more than three per centum of seed of yellow trefoil or any other seed of similar appearance to and of lower market value than seed of red clover; second, when seed of alfalfa contains more than three per centum of seed of yellow trefoil, burr clover, or sweet clover, singly or combined; third, when any kind or variety of the seeds named in section one of this act contains over five per centum of seed of another kind or variety of lower market value and of similar appearance.

SEC. 3. Seed shall be considered unfit for seeding purposes within the meaning of this act: First, when any kind or variety of clover seed contains more than one seed of dodder to three thousand seeds of clover; second, when any kind or variety of the seeds named in section one of this act contains more than three per centum by weight of seeds of noxious weeds.

[H. R. 29163, Sixty-first Congress, third session.]

A BILL To regulate commerce among the States and with foreign nations, and to prevent the transportation of adulterated and misbranded seed and bulbs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the introduction into any State, Territory, or District of the United States from any other State, Territory, or District, or from any foreign country, or the shipment to any foreign country of any seed or bulbs adulterated or misbranded, within the meaning of this act, is hereby prohibited; and any person who shall knowingly ship or deliver for shipment from any State, Territory, or District of the United States to any other State, Territory, or District of the United States or to a foreign country, or who shall receive in any State, Territory, or District from any other State, Territory, District, or foreign country, and having so received shall knowingly deliver or offer to deliver in original unbroken packages, for pay or otherwise, to any other person any seed or bulbs adulterated or misbranded, within the meaning of this act, shall be guilty of a misdemeanor, and for such offense be fined not exceeding two hundred dollars for the first offense and for each subsequent offense be fined not exceeding five hundred dollars or be imprisoned not exceeding one year, or both, in the discretion of the court: *Provided, however,* That this act shall not apply to seed or bulbs to be used solely for propagation or testing and not for sale or distribution: *And provided further,* That nothing in this act shall be held to prohibit the transporting, handling, and storing of seed and bulbs for the purpose of being cleaned, mixed, graded, or labeled before being offered for sale for seeding purposes.

SEC. 2. That the Secretary of Agriculture shall make uniform rules and regulations for carrying out the provisions of this act, and, for the same purpose, may from time to time publish standards for different kinds and varieties of seed and bulbs and for different grades of the same kind or variety of seed or bulbs.

SEC. 3. That the term "seed," as used in this act, shall include vegetable, flower, cereal, grass, clover, forage plant, and other agricultural and horticultural seeds intended for seeding purposes.

SEC. 4. That for the purposes of this act seeds and bulbs shall be deemed to be adulterated—

First. If seed purporting to be orchard-grass seed contain more than three per centum of seed of rye grass or meadow fescue; if seed purporting to be Kentucky blue-grass seed contain more than three per centum of seed of Canada blue grass; if seed purporting to be red-clover seed contain more than three per centum of seed of yellow trefoil; if seed purporting to be alfalfa seed contain more than three per centum of seed of yellow trefoil, burr clover, and sweet clover, singly or combined; or if any seed or bulbs purporting to be of one kind or variety contain more than five per centum of another kind or variety: *Provided,* That no seed or bulbs shall be deemed to be adulterated, within the meaning of this paragraph, when accompanied by a statement or label in the form and manner prescribed by the rules and regulations in this act provided for giving the names and amounts or proportions of the kinds or varieties of seed or bulbs contained therein.

Second. If seed of any kind or variety of clover, alfalfa, or flax contain more than one seed of dodder to three thousand seeds of clover, alfalfa, or flax, respectively; or, if any seed contain weed seed to an extent which renders it unfit for seeding purposes.

Third. If any seed or bulbs contain, respectively, dead seed or dead bulbs or other matter in sufficient quantities to materially reduce the value for seeding or planting purposes: *Provided,* That no seed or bulbs shall be deemed to be adulterated, within the meaning of this paragraph, when accompanied by a statement or label in the form and manner prescribed by the rules and regulations in this act provided for giving the amounts or proportions of live seed or bulbs and other matter contained therein.

Fourth. If there shall be knowingly added to seed any weed seed or dead seed, or any other matter materially reducing its value for seeding purposes: *Provided,* That it shall not be construed as a violation of this paragraph to blend different lots of seed of the same kind or variety which are not themselves adulterated, within the provisions of this act, or to mix different kinds or varieties of seed when named and labeled so as to plainly show the same to be a mixture.

SEC. 5. That, for the purposes of this act, seed and bulbs shall be deemed to be misbranded—

First. When one kind or distinguishable named variety of seed or bulb shall be offered for sale under the name of another kind or distinguishable named variety of seed or bulb.

Second. If in package form and the quantity of the contents is stated, they are not plainly and correctly stated in terms of weight, measure, or count, or if the package shall not plainly show the year in which the seed or bulbs were packeted.

Third. If the seed or bulbs be falsely labeled or branded as to the State, Territory, locality, or country in which raised or produced.

Fourth. If the package containing it or its label shall bear any statement, design, or device concerning the seed or bulbs contained therein, which statement, design, or device shall be false or misleading in any material particular, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package.

SEC. 6. That whenever the Secretary of Agriculture shall have made public, in accordance with the provisions of this act, any standards of seed and bulbs it shall be lawful for seed and bulbs complying in all respects with the standards so published by the Secretary of Agriculture to bear upon the label, together with the name of the article, the inscription "United States Standard;" and any person who shall use such inscription or words of similar import in any way as descriptive of any seed or bulb, subject to the provisions of this act, which does not comply with the standards so published by the Secretary of Agriculture, shall be guilty of a misdemeanor, and for each offense be fined not exceeding one thousand dollars.

SEC. 7. That no dealer shall be prosecuted under the provisions of this act when he can establish a guaranty, signed by the wholesaler, jobber, producer, or other party residing in the United States from whom he purchased such articles, to the effect that the same are not adulterated or misbranded within the meaning of this act, designating it. Said guaranty to afford such protection shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines, and other penalties which would otherwise attach, in due course, to the dealer under the provisions of this act; but it shall not be lawful to place on any package or container of seed or bulbs any label showing that the same are guaranteed under this act unless such label further shows that the guaranty is by the producer or wholesaler or other dealer, nor unless such label further complies with the rules and regulations to be made by the Secretary of Agriculture, as herein provided for.

SEC. 8. That if any seed or bulbs that are adulterated or misbranded within the meaning of this act and are being transported from one State, Territory, or District to another for sale, or, having been transported, remain unloaded, unsold, or in original unbroken packages, or if the same be sold or offered for sale in any Territory or District, or are imported from a foreign country for sale, or are intended for export to a foreign country, shall be liable to be proceeded against in any district court of the United States within the district where the same are found, and seized for confiscation by a process of libel for condemnation. And if any such seed or bulbs are condemned as being adulterated or misbranded, within the meaning of this act, the same shall be disposed of by destruction or sale, as the court may direct, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the United States: *Provided, however*, That upon the payment of the cost of such libel proceedings and the execution and delivery of a good and sufficient bond to the effect that such seed or bulbs shall not be sold or otherwise disposed of contrary to the provisions of this act, or the laws of any State, Territory, or District, the court may by order direct that such seed or bulbs be delivered to the owner thereof. The proceedings of such libel cases shall conform as nearly as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any such case, and all such proceedings shall be at the suit of and in the name of the United States.

SEC. 9. That the Secretary of the Treasury shall deliver to the Secretary of Agriculture, upon his request, from time to time samples of seed and bulbs being imported into the United States or offered for import, giving notice thereof to the owner or consignee, who may appear before the Secretary of Agriculture and have the right to introduce testimony, and if it appear from the examination of such samples that any seed or bulbs offered to be imported into the United States are adulterated or misbranded within the meaning of this act, or are otherwise falsely labeled in any respect, or are of a quality forbidden entry into or forbidden to be sold or restricted in sale in the country from which exported, or are intended for adulteration purposes, or contain dead seed or dead bulbs, or other matter in sufficient quantity to materially reduce the value for seeding or planting purposes, the said seed or bulbs shall be refused admission under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That the Secretary of the Treasury may deliver to the consignee such seed or bulbs, pending examination and decision in the matter, on execution of a penal bond for the amount of the full invoice value of such seed or bulbs, together with the duty thereon, and on refusal to return such seed or bulbs for any cause to the custody of the Secretary of the Treasury when demanded, for the purpose of exclusion from the country, or for any other purpose, said consignee shall forfeit the full amount of the bond: *Provided further*, That such seed or bulbs may be reclaimed in accordance with such rules and regulations as may be prescribed by the Secretary of Agriculture, and when so reclaimed as

to comply with the provisions of this act, the seed shall be released to the consignee or owner, but the screenings removed from such seed or bulbs shall be disposed of in the manner prescribed by the Secretary of Agriculture.

SEC. 10. That the term "Territory" as used in this act shall include the insular possessions of the United States. The word "person" as used in this act shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies, and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association within the scope of his employment or office shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society, or association as well as that of the person.

SEC. 11. That this act shall be known, described, and designated as the "Pure seed act" of nineteen hundred and eleven.

SEC. 12. That this act shall take effect and be in force from and after its passage, except that no penalty of fine, imprisonment, or confiscation shall be enforced for any violation of its provisions occurring prior to the expiration of eighteen months after its passage.

The CHAIRMAN. Gentlemen, we are at your service. If you have any order arranged among yourselves for hearing, we will be very glad to carry it out.

STATEMENT OF MR. W. S. WOODRUFF, OF S. D. WOODRUFF & SONS, OF ORANGE, CONN., CHAIRMAN OF THE LEGISLATIVE COMMITTEE OF THE AMERICAN SEED TRADE ASSOCIATION.

MR. WOODRUFF. Mr. Chairman and gentlemen, first of all I desire to thank the committee for the courtesy of granting us this hearing, and of postponing the hearing, which you so kindly did for us, from about two weeks ago. This seed proposition has been given a great amount of thought since the matter was up before this committee two years ago, and I think I am stating the truth when I state that the seed trade are ready for a seed bill, provided this Congress, or any other Congress, deems it necessary that we have a bill; and are not only ready for it, but are ready to cooperate with your committee by giving you the advantage of the technical knowledge that the long years of experience of our various associations have accumulated. We have represented here four national organizations: First, the organization of the Wholesale Seedmen's League of the United States; the Wholesale Grass Seed Dealers' Association; the National Association of Seed Analysts; and the American Seed Trade Association. We have thought best to ask the two factions, if we may so call them, namely, the grass-seed faction and the flower-seed faction, which, from their very nature, are unlike in many respects, to be represented and be heard before your committee. Without further preliminary remarks I shall call upon Mr. Reynolds, of Crawfordsville, Ind., to open the discussion, and to say what he pleases for the Grass Seed Association.

STATEMENT OF MR. A. E. REYNOLDS, OF CRAWFORDSVILLE, IND., REPRESENTING THE WHOLESALE GRASS SEED ASSOCIATION OF THE UNITED STATES.

MR. REYNOLDS. Mr. Chairman and gentlemen, I wish to say to you that the question of national control of various business industries of the country has been a vital question, and has been forced more and more on the public in the past few years. Ten years ago it would have been highly distasteful, and an unheard of proposition, for a

body of gentlemen such as you see here to appear, either obstruc-
tively or constructively, regarding legislation.

As has been stated by Mr. Woodruff, we have been led more and more to the way of thinking that legislation, not only if it is enacted, but that legislation should be enacted, controlling, or in some measure regulating, the seed industry of the country. I suppose it is a little unusual to come up and ask for something controlling our own business. But I would have you take into consideration that the Wholesale Grass Seed Association does not comprise everyone in the United States who handles grass seed. Therefore, if we were able, within ourselves, to control the industry which we represent, in so far as our own organization is concerned, we would still fall far short of being able to control absolutely the grass-seed business of the country.

Those of us who appear here this morning say for ourselves that our association, and the seed trade of the country in general, are in an industry that is represented by gentlemen who should have, first of all, accorded to them the distinction, if you please, of being upright, honorable men, conducting a business worthy of its calling, and endeavoring honestly and earnestly to carry forward a business in an honest, upright manner. I believe that the investigation of the grass-seed business of the country will show it to be on as high a plane of honor, and as earnestly conducted, and as desirous of giving an honest administration of a great industry, as any other commercial business of the country.

We therefore court legislation of the kind and the character under which the great seed industry of the country can be conducted in a way remunerative to the parties engaged in it, and at the same time to serve the public in as acceptable a manner as is possible to serve it. To that end we believe in protecting, first, the seed business in a way that will be conducive, honestly, to its promotion.

The great trouble we have had in the past is not being able in any way to control the importation of seeds as to quantity, quality, or condition. Therefore I wish first to confine my remarks to a consideration of bill 20373, and say to you that we have only suggested a few changes in this bill, and we have not altered in any particular measure the text of the bill. The copy that I hold in my hand I wish to have filed as a bill that would be wholly acceptable to the seed trade of the country as controlling the importations of seed from foreign countries.

The CHAIRMAN. The copy you have has the amendments that you would suggest?

Mr. REYNOLDS. It has the amendments, and I wish to file it at the proper time.

The CHAIRMAN. You may give that to the stenographer and it will be printed.

(The bill referred to will be found in the appendix.)

Mr. REYNOLDS. I wish, in considering this, that you would keep carefully in mind that we have tried to formulate a bill that would keep out the objectionable seeds and adulterants that enter into imports of foreign seeds, and particularly now I would ask you to make a distinction between what I am saying and what this bill and the other bill propose to enact as being distinctive and apart from the garden-seed business; for remember I am speaking wholly of grass seeds for the Grass Seed Association.

Mr. TOWNSEND. You say that would be satisfactory to all of the seedmen in the country?

Mr. REYNOLDS. I am speaking only, Mr. Townsend, for the grass-seed people. There are other people here to speak for the garden-seed people.

The CHAIRMAN. Of course that bill does not affect garden seeds.

Mr. REYNOLDS. No; this particular bill is on importations of grass seed.

Mr. TOWNSEND. And all the grass-seed men are agreeable to that proposition?

Mr. REYNOLDS. We are agreeable to this bill, and we have only slightly amended it. I want you to remember we have not assumed to frame a bill as a substitute.

The CHAIRMAN. It is fair to state that you prepared the bill in the first instance. I introduced it at the request of some of the gentlemen connected with that association.

Mr. REYNOLDS. Referring to bill 29163, the Mann seed bill, I will say, again, if we had had this bill to consider 10 years ago, I suppose we would all risen in our wrath and said, "This is preposterous," and so on. But that was before the days of the pure-food bills, and before we had had thrust upon us the importance, and the great benefit, of the pure-food laws. We believe that legislation along the line of controlling interstate business in seeds is, at this time, desirable, but we want a few amendments. When I say a few amendments, they are more especially directed to the management of business than to any change in the general text of the bill which has been introduced by your honorable chairman.

As you know, there are so-called seed bills being introduced in nearly every State in the Union. They are of greater or less merit, but they are in the aggregate absolutely inimical to the best conduct of the seed business of the country as a whole. Therefore, we believe that a bill that will cover the whole scope, and that will sooner or later control intra, as well as interstate, business, is to be desired over a score or more of bills under which we are restricted rather than promoted in our business. This bill will be taken up, if you will grant us the time, by another speaker, and gone over very carefully. The amendments which we offer we ask your careful consideration of.

I wish to emphasize, if possible, what has been said about our earnest and honest intent to be of service to this committee in getting a bill that will be creditable to the committee under which we can operate and under which the seed business of the country will be promoted rather than retarded. It is a great industry, gentlemen, how great you probably have not all studied and thought of as much as those of us who are interested in it. If we came here to object to a bill which you were forming, saying there was no need of that bill, we would be in an entirely different position from what we now occupy. We, the grass-seed people of the country, believe that a bill is necessary; we believe that a bill can be enacted that will redound in much good to the seed industry of the country, and that means to every crop raised in the country--grass field seeds of all kinds. When you come to consider that the hay crop is one of the very largest, in fact, the very largest, of all the crops raised in this country, it is quite important that we go to the bottom of it and get the very best possible service in the way of seed to produce that crop. When you consider that at

the bottom of all the intensified farming and the increasing of the resources of the soil is the fertilization of that soil, and that fertilization is carried on to a great extent through the source of planting clover for fertilization, you will see how important it is that the source of the wealth and industry of the country should be promoted to the highest possible degree.

Mr. TOWNSEND. What proportion of the grass-seed dealers are in your association?

Mr. REYNOLDS. I should say probably as much as, or more than, 80 per cent of all of the grass seed wholesaled in this country is represented in our association.

Mr. TOWNSEND. And that 80 per cent is composed of good, clean fellows who do not need any law against them?

Mr. REYNOLDS. I am advised by Mr. Dickinson to say fully 90 per cent. I would say, Mr. Townsend, even if that be so—and we think it is so—that the 10 per cent outside is just enough to introduce into our business the dishonesty that gives a bad repute to a good many others who want to do the square thing.

Mr. TOWNSEND. Are you suggesting any law that would change your methods now, the methods of the 80 per cent?

Mr. REYNOLDS. Only so far as we would be unified, and there would be certain rules covering analyses and general trade as between ourselves and the public; only that far.

Mr. TOWNSEND. Somebody who is to follow you is going to suggest the changes you are speaking about, is he?

Mr. REYNOLDS. What changes?

Mr. TOWNSEND. Some other witness is going to tell us what amendments you want?

Mr. REYNOLDS. Yes; you may hear a great deal about seed analysis, and we have a gentleman here who represents the association of seed analysts. But we, the grass-seed people, think that it is absolutely as yet in its infancy. There is no uniformity about it. There is absolutely very little certainty, and in saying that I probably transgress on the ground of what some one else has to say. But I say to you that, speaking personally, I believe the grass-seed people of the country will agree with me when I say that analysis, reliable and positive analysis, of grass seeds of the country, must yet be accomplished, regardless of your great laboratory here and your analyses that you support in the Government.

I want to drive home this point, that we earnestly desire to cooperate with you. We believe there is demand; we believe that it comes up from the tillers of the soil. We believe that it is demanded by the general condition and stress of business of the country to so regulate the grass-seed business of the country that it will be known of itself to be honorable, honest, and earnestly conducted by men who want to serve the public. But we do not want a bill that will so transgress our methods of doing business and so hamper us that this great industry will be damaged and injured to our personal detriment.

The CHAIRMAN. Have you a copy of the bill there with the amendments?

Mr. REYNOLDS. Yes; and if you will allow the speaker to follow me to take this up I will be very brief in what I wish to say in conclusion. I want to say this: While I am a wholesale grass-seed dealer, I stand alone, I think, in our association in being in the peculiar position of at the

same time being a wholesale grass-seed dealer and a farmer-seed dealer. I am out in Indiana, the greatest clover-producing State of this country. We produce more clover than any other one State, and I am right in the very heart of that State that produces that clover. I buy that clover direct from the farmers. My part has been, and is still, to go out to the wagon where the farmer brings the seed from the farm, inspect that seed, see what he brings to us, determine what is to be done with the seed to make it fit to be planted again, and besides that, when the time comes that the other farmer who has not seed wants to buy it, we retail it to that farmer. I claim that up from that humble position must come the demand and the necessity of pure seed. I think I am in closer touch with it than I would be were I simply a wholesale dealer in a city who distributed the seed but did not come against both ends of it.

I want to say, first of all, that any legislation that you propose or that we propose will be of much more effect and lasting benefit to the country if it is educational in its character than if it is intended to catch the transgressor only.

Mr. TOWNSEND. Can you tell us briefly as a practical man what evils you have met?

Mr. REYNOLDS. First, a lack of knowledge on the part of the farmer as to what he should plant—I mean what grade of seed—a laxness and carelessness as to what he should sow, for if he plants seed of low germination or low quality of any kind he is going to, in a measure, be damaged. Particularly, now, is that true if it contains obnoxious seeds that remain in his soil and do him damage next year.

I want to put another thought here, and that is this: That we, the grass-seed people, believe that it is absolutely impossible to frame and formulate a bill that will regulate the grass-seed business and that will be applicable to garden and vegetable seeds. The first reason is this—I had just started on that—that the farmer sows a field to grass, clover, or whatever it may be. If it is grass, it is not capable of cultivation. What grows there is harvested with it. It is not weeded, it is not pruned, it is not in any way changed until harvest time comes, and he harvests what is there. Not so with flower, vegetable, and garden seeds. They are capable of change. If he gets a few obnoxious ones there, he may be able to change it. Therefore, instead of there being less need for a pure grass seed to plant than there is for vegetable, it is more necessary, because, once planted in the soil, it is beyond the control of the sower or planter to change the condition of the stuff he must harvest. I find this about it: Any bill that will educate rather than penalize the seed trade of the country is the desirable bill. It can not be accomplished in a day or a week or in years, but it can be benefited and the farmer can be benefited if he is brought up and compelled to plant a better grade of seed than he has heretofore planted.

When you go to analyzing this bill, you will find there is one thing that we have striven very earnestly to accomplish, and that is to utilize so much of the seed that is brought from the farmer as is possible to be utilized without injuring the future of your farms. For instance, if a man brings to me seed that is badly mixed—in this bill we use the term “adulterated;” of course that is not just a good word to apply to the farmer, because it is grown with his seed—we aim to use as much of the seed as is available. But I know that in order to make that seed of the required quality and condition which that

farmer ought to plant next year there ought to be some restraint as to what would go commercially into that seed. Therefore I come in contact, as I said, with both ends of the proposition. There are other gentlemen who will speak on these points you have asked about later on. But I want to say to you that the greatest service that this committee or this bill or any other bill can be will be to put the seed trade in position to begin to educate the farmer.

Mr. ADAMSON. Is not the Agricultural Department giving attention to that phase of the subject through its bulletins and general work?

Mr. REYNOLDS. Yes; there is a great deal of work being done along that line. But if there are 10 per cent of the seed trade of the country allowed to do anything they want to do, and there are 60 or 70 per cent of the farming community which has no concern about the matter, which is a fact, the average farmer is not deeply concerned about that matter; he thinks he has slid along that far and will continue to do it. Something more is needed.

Mr. ADAMSON. Do you not think this legislation is in aid of that?

Mr. REYNOLDS. We certainly do. I believe you came in since I made my first statement. We come here constructively asking for legislation, and offering our services.

Mr. ADAMSON. That has been a favorite practice in the best educational institutions, to penalize the boys three or four times a day with the hickory.

Mr. REYNOLDS. But sometimes that did not turn out the best boy.

Mr. ADAMSON. He was smart enough to dodge.

Mr. REYNOLDS. We want to be of whatever assistance we can to this committee, to get a bill that may begin at the bottom and bring up the whole grass seed proposition, and again I want to emphasize that this does not apply to flower or vegetable seed; we are speaking only of grass seed. I think it is not worth while for me to continue further in my statement of this affair. I only want to emphasize that we want to be of service to this committee, and this committee to be of service to us, in getting the best possible bill. We do not claim that this bill, gentlemen, is all that experience will bring about, but we think it is a good starter, and gives a bill which, in the future, will control the seed trade, as far as possible to control a business and still not ruin or injure the business.

Mr. SIMS. To which bill do you refer, the first or second? You say "this bill," but you do not name it.

Mr. REYNOLDS. This bill—29163—which is to be treated by paragraphs and sections by the gentlemen who will follow me. I would be glad to answer any questions along the line of my remarks, if there are any.

The CHAIRMAN. We will have to hurry on.

STATEMENT OF MR. KIRBY B. WHITE, SECRETARY OF D. M. FERRY & CO., SEEDSMEN, OF DETROIT, MICH.

Mr. WOODRUFF. I would like next to introduce Mr. Kirby B. White, of Detroit, Mich., who will speak on the garden-seed side of the proposition.

Mr. WHITE. Mr. Chairman and gentlemen, the first thing that probably comes to your mind is the reason why the garden-seed people are perfectly in accord with bill 20373. As so directly pointed out by

Mr. Mann, the reason is that 20373 does not apply to garden seed, and we have no objection to your legislating on that any more than on the Panama Canal Exposition. But there is good reason for our objecting to any Federal legislation on garden seeds as such.

I do not expect to convince you at once, but I expect the arguments I will present will start you to thinking. All of the objects to be covered by any seed legislation that anybody ever wanted are comprehended under three heads—to prevent the spread of weeds, to see that the purchaser gets the kind of thing he supposes he buys, and to see that the seeds that he buys are alive and not dead. There is not anything else in the whole field of seed legislation that anybody ever aimed at.

Now, with regard to the spread of weeds. As the gentleman who preceded me said, weeds do not come in garden seeds, from the nature of the case, because garden seeds are grown under a high state of cultivation. The people who produce garden seeds in France, Germany, Holland, and all over Europe, and in our own California, grow them in gardens, and it is to their financial interests to see that weeds are kept down. Those seeds are harvested by painstaking labor, by hand, as a rule, and weeds do not have an opportunity to get in. In the main, then, and except in very extraordinary cases, weeds do not appear in garden seeds at all. Hence there is no need for any legislation to keep garden seed clean of weeds.

The next point is that the purchaser is expected to get what he buys. In our own practice it is very rare indeed that he does not get the variety which he supposes he buys. It is true sometimes that the variety which he buys does not come up to the description given in the catalogue. For instance, when Mr. Luther Burbank introduced the wonder berry, and it was sold under glaring advertisements, I do not think anybody charged that when a man bought wonder berry of Mr. Burbank, through his representatives, he did not get wonder berry. The only charge was that possibly Mr. Burbank was misled through his enthusiasm as to the value of the wonder berry. But that is not a matter which Federal legislation can control, so far as I know.

Mr. ADAMSON. He did not have a reliable artist to make the pictures; he exaggerated them.

Mr. WHITE. As the representative of a garden-seed house I should like to say this, we have just gotten out an entirely new set of illustrations for our packets, and the amount of labor that has gone into making those illustrations accurate is beyond any commercial expectation whatever. We have endeavored to make that thing what it is, because we have long since covered all the territory of this United States, and we have got to sell to the same people again. Now, does it not appeal to your sense of commerce that it is better for us to sell these people, as we have for three generations, what the goods are represented to be, than to find a new set of suckers every year—if you will excuse that word; I forgot myself. It is a fact that it is to our commercial interest, laying aside all matters of honor, to satisfy these people with what they get. In practice the only time that I know of in any seedsman's business that the purchaser does not get exactly what is represented as to the variety is when, by some error, a wrong bag gets in; that is, when a packet of some other variety gets into the packet of the variety which is being filled; and we prevent

that, as far as possible, and no amount of legislation could make us any more careful than we are.

This brings me down to the third point, and the thing on which I think you are probably most insistent, and that is, that the seeds which a man buys shall be alive and not dead. It would seem this was a matter which meant the most careful protection to the buyer. As a matter of fact, it is not true that the purchaser of garden seed needs any Federal protection, or any State protection, as to the viability of the seeds he buys. As a matter of fact 98 per cent of all the garden seeds sold are represented by the association, which is here represented; 98 per cent of all the garden seeds sold in this country are represented here. In our business we have practically no complaint of the viability of the seeds we sell. As a matter of fact the seeds grow, but the value of seeds does not depend upon the viability; it depends more upon the quality of the product. It is just the same as it is with cows. A thoroughbred cow is no more alive than a runt. But the amount of butter fat that that cow will produce may be three times as great. The value is not in the viability so much as in whether or not it is thoroughbred seed, and frequently thoroughbred seed does not test as much as seed of poorer quality and much higher viability. The highest viability comes in the wild stuff. That is a point in biology that you can not get around.

I should like to adduce, as evidence that a purchaser needs no protection, not only the fact that we, as seedsmen, have very little complaint of viability, but a circular published by the Department of Agriculture, Bulletin No. 131, part 1, on the germination of vegetable seed. That bulletin was published in March, 1908, so it is comparatively recent. In that bulletin there are tabulated 27 different kinds of seed—the ordinary kinds of seed—and that represents the viability tests of the Department of Agriculture on 27 different packeting houses, representing practically all the seeds that are sold in packets; and I think no one will claim that the viability of seeds sold by the pound or ounce is less than the viability of seeds sold by the packet. The average of all the viabilities for each kind is reached. For the 27 different kinds—and, as it chances, the 27 different packet houses—the average number of plants of all kinds which a purchaser would get for 5 cents, putting the seed up in the quantity in which most of the seeds are put up, is 923 plants for a nickel. Of that average the lowest is represented by watermelon. The average viability of watermelons sent out by all these houses is 64. There are, of course, in a packet of watermelon only a few seeds, because the seeds are so large that the packet will not hold very many. The average number of plants which would be obtained by the average number of seeds is 49. That is the lowest of all of them. They range from that up through the thousands. The average number of sprouts which the purchaser would get out of a packet of seeds of rutabaga was 2,212; the average number of sprouts of lettuce was 2,250. I submit to you, gentlemen, that there is no practical need for protecting the buyer on the viability of commissioned packets as sold.

There is not only no need of protecting the buyer of vegetable packets with regard to weed seeds and to see that the purchaser gets what he supposes he buys, or protect him to see that the seeds are alive, but I very much doubt if you constitutional lawyers here would want to legislate on this question anyway, because if you did so you

would be holding the seller of seeds responsible for the operation of a natural law which he can not control and the actions of which he even does not know infallibly. The association of seed analysts here represented will tell you that there are no two experiment stations in the United States which infallibly get the same result at the same time as to the viability of a given lot of seed.

Mr. ESCH. Do you mean the same lot of seed?

Mr. WHITE. The same lot. You take an ounce of seed and distribute that 1 ounce of seed to six different experiment stations, exactly as was done by a seedsman from Iowa, and you would have, perhaps, in that 1 ounce of seed, tested at six different experiment stations, six different viabilities, ranging from 50 to 80 per cent. If you pass a law holding a man responsible for the truth of the statement which he makes regarding the viability of seed, you can send him to jail.

Mr. HUBBARD. How do you account for that variety?

Mr. WHITE. I can not account for it.

Mr. HUBBARD. The soil in which the experiment was made, or the temperature—

Mr. WHITE. I can not account for it. It is not accounted for even by the analysts themselves; they do not know. All we can say is that that is the operation of a natural law that as yet we know very little about.

Mr. ADAMSON. The same stalk or plant produces different qualities and varieties of seed, and improvements are made by selections of the best from the same stalk.

Mr. WHITE. That is quite true; but that is the element of quality rather than viability.

Mr. ADAMSON. I know; but it demonstrates the impossibility of having all of them alike in one packet.

Mr. WHITE. That is exactly true, and perhaps that accounts for it.

The CHAIRMAN. Do you mean that in your house, in your testing department, you can not tell, within 50 to 80 per cent, what number of live seed there are in a packet?

Mr. WHITE. I mean exactly that, that sometimes a test will vary, put in on the same day, as much as 40 per cent. I do not say that is the rule, Mr. Mann.

The CHAIRMAN. I want to know whether, in your testing department, you are unable to determine, to between 50 to 80 per cent, whether that seed is good or not?

Mr. WHITE. We are sometimes unable to do it.

The CHAIRMAN. Of course you never can tell, sometimes.

Mr. WHITE. That is right.

The CHAIRMAN. Then, you say you are not able to do it?

Mr. WHITE. If you are willing to judge us on the average, that is right; but you would have to convict us on particular cases, and that particular case might be the case in which this thing was less in viability.

The CHAIRMAN. But you do not know whether you can do it or not; you say it is impossible to tell?

Mr. WHITE. I do.

The CHAIRMAN. Whether it is between 50 and 80 per cent. Then, in your house, you can not tell, within from 50 to 80 per cent, whether your seed is good or not?

Mr. WHITE. Not with any certainty.

Mr. HUBBARD. Just there, will you let me know the extent of the variety which has actually been found to exist where these six tests were made by different analysts, the difference between the percentages that they found?

Mr. WHITE. The lowest was 50 and the highest was 80.

Mr. HUBBARD. Has the experiment been made by giving those six parcels out of this ounce to one man who experiments on them in the same place?

Mr. WHITE. That frequently is done.

Mr. HUBBARD. When that is done what is the extent of the variety?

Mr. WHITE. The same stuff may vary, and frequently 'does.

Mr. HUBBARD. I am asking you for actual tests.

Mr. WHITE. For an actual case, I will have to refer to the oldest seed tester in the United States, who is here present. He has been testing seed under the first law that was ever enacted regarding seeds in the United States.

Mr. HUBBARD. Do you know the results of the tests he has made?

Mr. WHITE. I can not answer. He is here; he can answer for himself.

The CHAIRMAN. You are referring to tests in the soil, I suppose?

Mr. WHITE. Yes; all of the tests which are made by the concern which I represent are made in the soil. We do not make any other kinds of tests at all.

The CHAIRMAN. You do not make any tests for viability of seed except by planting?

Mr. WHITE. That is all. I may say right here, there is no way of telling the viability of the seed except by planting it. You can not tell it by inspection; there is no other way.

Mr. RICHARDSON. You contend, then, that you can not possibly mark the seed on account of the variety that is in there; you can not designate what is in there?

Mr. WHITE. We can not say of a certainty the viability of the seed that is in there.

Mr. RICHARDSON. You are required to mark the contents to indicate to the person what you are selling. Could you not put on that such a mark as would indicate there was a variety in there?

Mr. WHITE. A variety of viability?

Mr. RICHARDSON. Yes; a variety of seed in there.

Mr. WHITE. If we did that it could only be advisory, because, as I say, no man knows the viability of that seed. The only way he could find out the viability of the seed in a given packet would be to plant that seed; and having planted that seed, of course, it can not be sold.

Mr. RICHARDSON. This law was intended, you know, to admonish the purchaser and to regulate the dealer, the filler, in telling what is really in that packet. Would the variety indicate to the purchaser that there were different qualities in that seed, or something of that kind, so as to admonish him?

Mr. WHITE. Are you speaking about how much of that seed will grow?

Mr. RICHARDSON. Yes.

Mr. WHITE. I see. As a matter of fact, as I have shown you from the figures here that there is not any practical need of that, because

on the average it grows a great deal thicker than the farmer wants it anyway. He has to thin it out, and there is not any need for it.

Mr. RICHARDSON. You have heard but little complaint of the people who sell seeds throughout the United States selling adulterated seeds, have you?

Mr. WHITE. There is no adulteration, so far as I know, of garden seeds.

Mr. RICHARDSON. There has been no general complaint?

Mr. WHITE. There is not any. I may say that we sell seeds in every hamlet in this country, and we have been in a position to know.

Mr. RICHARDSON. What do you understand this to mean? It says, "Seeds and bulbs, and things of that kind." Are those bulbs raised to dispose of by nurserymen?

Mr. WHITE. If you do not mind, I would like to refer you to the man who will speak especially on bulbs, because he is a great deal better informed on that subject than I am.

If legislation were needed, if you were going to legislate, if there were a practical demand for it and it were needed, on the subject of viability, would you want a Federal law to protect the purchaser in the quality of the stuff that he bought, or would you leave that, supposing that a law were needed, to the States? I ask you, is there any case of the Congress of the United States passing a law to see that the purchaser receives his money's worth when he buys a commodity which does not affect his health? We all applauded and we all rejoiced over the pure-food law.

Mr. ADAMSON. When you consent to that you give up this, because this is more important than that.

Mr. WHITE. The difference is right here. When a man buys food that is adulterated he poisons himself; when a man buys seed, supposing there were such a case, which was not as much as it ought to be, his pocket only is affected.

Mr. ADAMSON. You are going to make it a matter of detail, according to the necessities of each individual person, and you might as well abandon the other and go on and let Congress do everything.

Mr. WHITE. Is Congress ready to embark on the field of Federal regulation with regard to saying that the purchaser of every 5-cent packet of seeds, or every \$2 pair of shoes, or every ice-cream freezer, or anything of that kind, shall get his money's worth?

Mr. ADAMSON. We have already entered upon it, and in less than 25 years they will trim the corns and toe nails and name the babies. [Great laughter.]

Mr. WHITE. Gentlemen, I do not need to say any more.

The CHAIRMAN. Can you tell sugar-beet seed from garden-beet seed?

Mr. WHITE. No, sir.

The CHAIRMAN. Can you tell mangel-wurzel seed from garden-beet seed?

Mr. WHITE. I am not a seed expert; I do not know whether they can be distinguished, but I can not tell them.

The CHAIRMAN. You say you are not a seed expert. I supposed you were here as a seed expert.

Mr. WHITE. I have been engaged in the seed business for 17 years, and of necessity any business is diversified and requires specialization,

and my specialization has not been along the line of determining from the appearance of the seed what that variety is.

The CHAIRMAN. But you come as an expert and tell us that you can not mix weed seed with garden seed, that you can not tell the varieties of garden seed, and that it is impossible to tell the viability.

Mr. WHITE. I have told the things which I knew.

The CHAIRMAN. Are you an expert on those three things?

Mr. WHITE. So far as the statements I have made here are concerned, I know they are true. More than that, I make no claim to be an expert.

The CHAIRMAN. Is the trade able to distinguish the difference between a mangel-wurzel seed and a garden-beet seed?

Mr. WHITE. So far as I am concerned, I can not. I do not know what the rest of the trade can do. I can refer you to some other seedsmen here who can answer that.

The CHAIRMAN. You know, there is a tariff of 4 cents a pound on garden-beet seed, and no tariff on mangel-wurzel seed or sugar-beet seed.

Mr. WHITE. That is quite true.

The CHAIRMAN. Do you think there is any garden-beet seed imported into the country as sugar-beet seed?

Mr. WHITE. Not to my knowledge.

The CHAIRMAN. Do you think there is any?

Mr. WHITE. I do not.

The CHAIRMAN. Do you think there is any way of determining whether there is or not, so far as the customhouse is concerned?

Mr. WHITE. If the seeds are not distinguishable by the appearance, I do not see how there is any way.

The CHAIRMAN. You know there is a tariff of 8 cents a pound on kale seed, and no tariff on seed; can the trade distinguish the difference by the appearance of the seeds?

Mr. WHITE. Not so far as I know.

The CHAIRMAN. There is a tariff of 4 cents a pound on turnip seed, but no tariff on mustard seed; can they be distinguished by the appearance?

Mr. WHITE. Not so far as I know.

Mr. KENNEDY. They can by taste, can they not?

Mr. WHITE. They might distinguish mustard, but the other seeds are so nearly alike that I do not believe they could distinguish them.

Mr. ESCH. This bill states, provided there does not appear plainly on the packet the year of packeting. Is it possible, or is it the practice of the seed houses, to warehouse seed a year or two before packeting?

Mr. WHITE. That very frequently is the case, because the only way to determine the quality of seed is to plant part of it. Take, for instance, radish; the only way to determine the quality of that seed is to have a trial in the ground, and compare all the radishes, and see how true they are to the type. In order to make the requisite quality trials, it frequently is necessary to carry that seed over to another year; and the best buyers of seed—when we sell seed to another seed house or when we have occasion to buy seed of another seed house—would not think of buying seed that was not at least a year old, in order that these quality trials might have been obtained.

Mr. ESCH. So that the purchaser of a packet would not know, within one or two or three years, possibly, of the time of the production of that seed?

Mr. WHITE. He would not.

Mr. ESCH. What is the percentage of deterioration a year of seed; is there any known schedule?

Mr. WHITE. There is not any known schedule. It not infrequently happens that seed tests better the second, third, or even fourth year, than it did when it came in from the farm. All that the buyer can do is to trust to the self-interests of the seller to sell him goods that will redound to his credit.

Mr. ADAMSON. Will garden seed generally germinate after three or four years?

Mr. WHITE. It depends altogether upon the kind.

Mr. ADAMSON. Not on how they are kept?

Mr. WHITE. Of course on how they are kept. I stand corrected.

Mr. ESCH. So that the placing of the year on the packet is not of so much real advantage to a purchaser?

Mr. WHITE. I do not see how it is of any advantage except to this extent, that it might be that seeds which are sold by concerns which sell their packets outright might lie around in a country store for two or three years after they were received by the retailer, and in that case, if they were marked with the year in which they were packeted, the buyer would have an opportunity to know how long the retailer had had them in his possession.

Mr. SIMS. Does not your company take up all the seed each year for which there are no buyers?

Mr. WHITE. Yes.

Mr. SIMS. I mean for retail purposes.

Mr. WHITE. Yes; our concern takes it all up, and it never sends out a packet a second time.

Mr. SIMS. If it is as good as it was the first time, why not?

Mr. WHITE. Because of this fact, that viability is a matter which we have very little control over, and when you come right down to it, not very accurate knowledge of. It is to our interest to see that the viability of the seed that goes out is as good as we can make it, because we want to sell them again.

Mr. SIMS. What do you do with these seeds you take up?

Mr. WHITE. When these seeds come up there are certain seeds, like parsnips, which have to be destroyed or used for other purposes. We have a farm. We have at present 2,000 sheep and 180 steers on the farm, and a good many old seeds which have lost their viability we cook up into a ration.

Mr. SIMS. In other words, you retest them, and only send out those which are still good?

Mr. WHITE. Those that are still good we have no hesitation in sending out again.

The CHAIRMAN. Where do you test your seed?

Mr. WHITE. They are all tested at our trial grounds in Detroit.

The CHAIRMAN. That is, it is inside under glass?

Mr. WHITE. All our viability tests in winter are of necessity inside. In the summer we open the windows and get it as cool as we can, because it gets very hot in Detroit.

The CHAIRMAN. Did I understand you to say you never sent out any seed until the second year?

Mr. WHITE. Oh, no. Sometimes we are compelled by the necessities of trade to send out seed without having kept it a year.

The CHAIRMAN. But you ordinarily keep your seed a year before it is sent out?

Mr. WHITE. The majority of it is so kept.

The CHAIRMAN. And you deem it practical to keep that seed a year before sending it out?

Mr. WHITE. Quite so.

The CHAIRMAN. That is, you would not send out seed produced in 1910 before 1912?

Mr. WHITE. That would be the probability.

The CHAIRMAN. That is the ordinary custom of your house?

Mr. WHITE. That is the custom of our house. I want to say that the results of the viability tests of seed sent out by our house, as indicated by the Department of Agriculture, you will find on investigation are altogether to our credit, I have no hesitation in saying.

The CHAIRMAN. Do you want us to publish the tests?

Mr. WHITE. I should be delighted to have you publish the tests of our house; I do not speak for anybody else.

The CHAIRMAN. We have your consent?

Mr. WHITE. You have my consent to publish the viability tests of the seed of our house, and the more you publish them the more we will like it.

The CHAIRMAN. That remains to be seen. [Laughter.]

Mr. WHITE. I grant you that.

STATEMENT OF MR. GEORGE S. GREEN, OF CHICAGO, ILL., REPRESENTING THE WHOLESALE GRASS SEED DEALERS' ASSOCIATION.

Mr. WOODRUFF. I would to call next upon Mr. George S. Green, of Chicago.

The CHAIRMAN. How much time will you want?

Mr. GREEN. That depends altogether. I think I could get through in 15 or 20 minutes with a general statement of what I want to say, and submit the suggested revision of your bill for future consideration. If we have to go into the detailed changes suggested in this bill, and I have to answer questions, it would probably take me a longer time.

The CHAIRMAN. I would suggest in that respect that you leave with us, for printing in the record, a copy of the bill with the changes that you have suggested written in as a part of the bill, and the committee will be able to compare all those bills.

Mr. GREEN. If it would be in order, I think it might be well if each member of the committee had a copy of this.

Mr. TOWNSEND. Have you copies for each one of them?

Mr. GREEN. Yes; we have printed copies.

Mr. RICHARDSON. Mr. Mann has two bills in here, one by request, 20373, and 29163. To which are you addressing yourself?

Mr. GREEN. I will say just a few words in regard to the first bill, 20373, first.

Mr. RICHARDSON. That is introduced by request.

Mr. GREEN. Yes; I will have just a few words to say in regard to that. I simply want to put myself on record as approving heartily of what Mr. Reynolds has said. As I said, this bill, regarding importations, has the full approval of, and is heartily indorsed by, the grass-seed trade of the country. We hope it will be passed, and as promptly as possible. We believe it will correct certain crying evils, and that those evils should be corrected. We heartily approve of that bill as slightly amended.

As to 29163, I stand heartily with Mr. Reynolds in approving of the general principle of Federal legislation regarding interstate commerce in seeds, if it can be made reasonably just and of benefit to American agriculture and not destructive to the seed trade. As it stands, the bill that your chairman has prepared I do not think fully meets those conditions. I believe it needs changing. I believe the intent of the bill is right. I believe that it needs revision to make it a practicable, helpful law, and it is with the thought of having such a practicable and helpful law that we have suggested these changes.

I think, as the time is planned here, it will be impossible to go over all the details of the changes suggested, and I think I would like very briefly, or as briefly as may be, to emphasize the most important points wherein we think the bill needs changing.

To get right into the meat of it, this bill attempts to regulate the quality of seed, especially for export to foreign countries. We think that is a mistake. We think that foreign buyers should know what they require; that they come nearer to knowing what they require, perhaps, than the general trade in this country. They have been better educated along seed lines, in many instances. We believe that there are lots of parcels of seed which are commercially valuable in other countries which this bill, as it stands, would prohibit from export. We believe that is not economical.

Mr. HUBBARD. Do you mean they would be inferior in some respects?

Mr. GREEN. They would not meet the requirements of this bill, but would be commercially valuable where they were sent.

Mr. HUBBARD. Why? What would be the difference?

The CHAIRMAN. If I understand your position, it would be that some seed, for instance, that might be adulterated under this bill, mixed with certain kinds of weed seeds, would be sent to countries where those weed seed would be of no material disadvantage, that they would not propagate.

Mr. GREEN. That is one of the points; there are others. That is an illustration in point. We very earnestly protest against any provision in the bill in regard to the export of seeds. I want to make one more point in that connection. We believe that the prohibition of the export, even of harmful seeds, or seeds that might be harmful under certain conditions, is unwise. It tends to keep these weed seeds for resowing in the localities where these respective weed seeds thrive and flourish, and hence continues to poison the home source of supply; whereas the export of such seeds to countries where those weeds do not thrive serves a useful commercial purpose, and helps to clear the source of supply, because, of course, most buyers prefer pure seeds, free from weeds.

Mr. RICHARDSON. Do you not think if that policy were pursued, and it was understood by foreigners, after awhile, that we were ship-

ping anything from this country to them that did not literally comply with the laws of our own country, and in the nature of an imposition upon them, it would finally become a discredit to this country, and your trade would cease?

Mr. GREEN. No; because they would not buy that kind of stuff. They know what they want, and if we give them what they want I think our duty is at an end.

Mr. RICHARDSON. I should not think they would want anything in the way of a commodity or a product that did not comply with the laws of our own country—that would be condemned here by our own laws. I do not think any foreigner or any other man would want that.

Mr. GREEN. I will give a concrete illustration of that. In the dry country, in the western part of Kansas and in Colorado, a very troublesome weed thrives, called Russian thistle. This plant has its habitat in that dry country, and it grows and multiplies there. Many lots of alfalfa seed have very high percentages of Russian thistle, so high that they could not, under the provisions of this bill, be sent as seed ready for seeding into use anywhere. These very parcels of alfalfa in some years are very highly valuable elsewhere. They are valuable in parts of this country. But, for the sake of my argument, I will say they are valuable in European countries where the climatic conditions are not similar to these dry, arid conditions and where this plant, this Russian thistle, will not and does not thrive. The seeds are viable; they are highly valuable, and why we should undertake to prohibit the export of such goods is more than I can understand.

Mr. BARTLETT. You have a very high Biblical authority to do that sometimes. According to the Levitical law, when an animal dies a natural death it should not be eaten, but should be given to the stranger within the gates. [Laughter.]

Mr. GREEN. I do not look at it from that standpoint. I hope I have made it clear. As to the penalties, we think the chances for error are such that if this law is to be educational the imprisonment penalty would better be left out, at any rate until some future time. That is all I will say on that point.

Section 2 reads:

That the Secretary of Agriculture shall make uniform rules and regulations for carrying out the provisions of this act and, for the same purpose, may from time to time publish standards, etc.

Another later paragraph goes more into detail with regard to that and provides, in section 6, that when such standards have been published by the Secretary of Agriculture, seeds conforming to those standards may be marked "United States standard," and providing a penalty for any goods improperly marked with those words. It is not necessary to quote the whole bill. I am going to take the liberty of reading from a letter that I wrote Mr. Mann last winter in regard to this point, because I think it states my position more clearly than I could otherwise do:

FEBRUARY 12, 1910.

HON. JAMES R. MANN, *Washington, D. C.*

DEAR MR. MANN: I am in receipt of your letter of February 5, for which accept thanks. I shall be glad to have printed copies of the suggested outline for bill regarding importation of seeds, when it is printed.

The meeting of committees representing the leading associations of seedsmen in the United States was held in Chicago February 9, as planned. After a prolonged discussion of the subject we found the problem of evolving a satisfactory law dealing with interstate commerce in all varieties of seeds as difficult and perplexing as ever.

It was the opinion of the majority of those in attendance at the meeting that no law should be enacted in which garden seeds and bulbs were included under the same provisions as might properly apply to grass and clover seeds, because the conditions of production and use of these two classes of seeds are so radically different.

It was also thought that it was unwise to provide for arbitrary standards, to be fixed by the Secretary of Agriculture, for the following reasons:

First. It is believed to be impossible to make such standards properly conform to the varying requirements necessitated by varying climatic and crop conditions attending the production of seed.

Second. The best methods of testing seeds for purity and germination which are now in use are not sufficiently uniform and accurate, and the vitality of seeds not sufficiently stable to warrant imposing heavy penalties for the sale of seeds falling below a certain arbitrary standard.

Third. While purity and germination constitute the only available basis of arbitrary standards, they are by no means a complete or accurate measure of the actual value of seeds to the user thereof. Color and size of seed, locality of production, trueness of type, excellence of strain, and many other qualities enter into the value of seeds, and in any given instance any one of these might be the determining factor in measuring their true value to the user. These considerations make it manifestly unjust to allow the terms "United States standards" to be applied indiscriminately to all seeds of certain varieties which might reach certain standards of purity and germination, thus tending to create the false or misleading impression that they are all of equal value.

Fourth. It is believed to be questionable public policy to place in the hands of any public officer the power to hamper any trade or business to the extent that such proposed standards would do, especially in a case where the knowledge of conditions of production and the apparatus and methods for making tests are only now in the process of evolution and not by any means perfect.

We believe that no legislation should restrict or prohibit the exportation of any class of seeds having commercial value in any foreign country. For example, there is now produced in this country clover and alfalfa seed in considerable quantities containing dodder. There is a foreign market for such seeds. There are certain climates and countries in which dodder does not thrive, and there is no sound reason, either commercial or moral, to absolutely prohibit the exportation of such seeds. On the contrary, such prohibition would tend to cause such seed to be resown within our country.

We believe that the provision in section 9, page 7, lines 20, 21, and 22, "or is or are of a quality forbidden entry into or forbidden to be sold or restricted in sale in the country from which exported" is unfair and would prove exceedingly burdensome, because it throws upon the importer the necessity of keeping thoroughly informed at all times about legislation in any foreign country from which he purchases seeds. Even then he could not be thoroughly protected, as some new law might be passed in the exporting country between the time he contracted for the goods and the time of shipments reaching the United States customhouse. Furthermore, some restrictions which might be wise or necessary in the country of production might be entirely unnecessary and unwise here.

There are other more or less important points in your proposed law with regard to which the wording would seem to need change which we shall be glad to take up with you in conference should the necessity arise and opportunity be afforded. We appreciate the evident fair-minded spirit which has led you to eliminate so many of the burdensome features of your former bill, and we believe you will, upon reflection, concede the force of our arguments stated above, and will not hastily introduce or urge a law unless you believe it to be in all respects suitable for the requirements of the situation. In the meantime our committee resolved to indorse my suggestion for a bill to prevent the importation of adulterated seeds unfit for planting, and to pledge you our support to help to secure the prompt passage of a bill covering this ground in case you should consent to introduce and urge for passage such bill.

Referring again to your letter of February 5 with regard to State seed legislation, will say that the general sentiment of the trade has always been favorable to a single workable Federal law governing the sale of seeds in preference to diverse State laws. However, the legislatures of many States have already passed seed laws, some of them being very impracticable and unwise, and other such laws are under consideration. The Boston conference was held with the hope that more uniformity and reasonableness might be secured with regard to State legislation, and it is hoped that the situation will clear up somewhat during the next year. In the meantime it seems to us unfortunate to further complicate the situation by a Federal law which may not in any way work in harmony with the State laws now in existence or soon to be passed.

I understand you are one of the busiest men in Congress, and this is a busy time of year with all seedsmen. It seems hardly probable that it will be possible to work out during the present session of Congress a bill governing interstate commerce in seeds which will be really helpful to agriculture and at the same time not unduly burdensome to dealers. Such being the case, would it not be wise to do promptly the thing which we are all agreed should be done, viz, stop the importation of low-grade and worthless grass and clover seeds, leaving for future attention the far more difficult task of framing a more comprehensive bill regulating interstate trade in seeds?

Hoping to have your views with regard to this matter at your earliest convenience, and hoping that no further definite action will be taken without ample opportunity for further discussion of the subject, I am,

Yours, sincerely,

GEO. S. GREEN,
*Chairman of the Committee on Legislation of the
American Seed Trade Association.*

Will any opportunity be given to submit in writing some detailed objections to minor, and yet not unimportant, points with regard to this bill?

The CHAIRMAN. I have a number of communications from seedsmen suggesting objections or amendments to the proposition, and without objection any gentleman may send us any communication on the subject, which we will insert as a part of the hearing.

Mr. GREEN. In order to save time I will pass by some things I might say with regard to other points in reference to the law, and finish what I have to say as briefly as possible.

The CHAIRMAN. I might say, in connection with that, that written arguments will probably be just as effective as an oral statement, because there is no likelihood that the committee will be able to take these bills up for final consideration at this session of Congress, unless it should be the import bill. I do not know what the chances would be for that.

Mr. GREEN. If that can be hurried through at this session, I am sure seedsmen will be pleased. In regard to the other, I think we might have breathed a great sigh of relief two or three years ago in regard to that, as staving off an evil day. But we do not feel just that way now. I want to put myself very clearly on record, notwithstanding these objections I have made to this bill, I want to stand right squarely up with Mr. Reynolds as to the advisability of some reasonable national regulation of traffic in grass seeds.

Mr. BARTLETT. In order to get rid of the regulation by the States; I do not blame you.

Mr. GREEN. Yes, sir. We not only want that, we want higher and better conditions in trade than now obtains. Notwithstanding all the faults of these seed laws, we have seen the benefit of the fear of the law upon the misdoer. I do not hesitate to say that the average condition of the grass-seed business of the country has been improved since the agitation.

Mr. TOWNSEND. Who has been the misdoer, the dealer or the grower?

Mr. GREEN. The records of the department best answer that.

Mr. TOWNSEND. Can you not tell us?

Mr. HUBBARD. You are not asking for individual names?

Mr. TOWNSEND. No; but I am asking if it is the dealer or the grower?

Mr. GREEN. The most unwise man has been the man who demanded low-grade seed and would not pay for high-grade seed.

Mr. TOWNSEND. That is, the buyer?

Mr. GREEN. The most unwise man. If the satisfaction of the demand for this low-grade seed, which is economically unprofitable to sow in most instances, is criminal, probably all grass-seed dealers have been more or less to blame in the past; but to a very decreasing extent.

Mr. TOWNSEND. Who is the man who demands that, the dealer or the farmer who sows it?

Mr. GREEN. The farmer, I think.

Mr. TOWNSEND. He wants bad seed?

Mr. GREEN. No; I do not think he wants bad seed; he wants cheap seed, and he gets bad seed because bad seed is, generally speaking, the only cheap seed.

Mr. RICHARDSON. Have you not discovered that when he buys cheap seed and gets bad seed, and he finds that out, he will quit that and go to getting good seed?

Mr. GREEN. Some of them do; an increasing number are doing that.

Mr. RICHARDSON. It just reforms itself, then?

Mr. GREEN. Gradually. And I may say right here that there has been very great reform in the average quality of the seed demanded, and the average quality of the grass seed furnished, during the past five or ten years, and that thing will go on regardless of any law. I believe that we will sell better seeds; we will sell great quantities of seed higher in grade, better for the user than any arbitrary standard that you could possibly fix. I believe there is a demand for such stuff. I believe the demand is being satisfied, and there is less low-grade seed going into consumption all the time.

Mr. RICHARDSON. In what character of seed does that low-grade seed, that is sold cheap, mostly appear? Is it grass seed or clover seed?

Mr. GREEN. I am speaking only for grass seed; I do not pretend to speak for the garden seed trade.

Mr. RICHARDSON. You do not speak for them?

Mr. GREEN. No. Just a few moments and I will be through. I have attended various committee meetings at different times, and I believe that what Mr. Reynolds and I have said here reflects the positions of the trade. I believe we are here constructively, not obstructively, and in furtherance of this constructive method, I have this final suggestion to make. Mr. Mann has said that he thinks there is no probability that action will be taken on this bill, 29163, at this session of Congress. We do not believe this revised bill we have handed in here is perfect by any means. We believe it could be improved by expert attendance and, in conclusion, for the grass-seed trade, or for the seed trade, if the grass-seed people will consent to this, I want to suggest that as soon as practicable after the urgent work that you people in Washington have in hand here is attended to, a commission be appointed of three Congressmen, preferably from this committee, three expert seed analysts, or representatives of the national or state departments, three experienced grass-seed dealers, and three garden-seed dealers.

Mr. RICHARDSON. Do you not take any of them from the Agricultural Department?

Mr. GREEN. Yes; three seed analysts from the Agricultural Department; in other words, scientific men versed in the testing of seeds.

Mr. RICHARDSON. You struck this committee at an unfortunate time. We have just had a good deal of experience about getting scientific boards or commissions.

Mr. GREEN. I am sorry for that. We like the scientific fellows pretty well, sometimes; and sometimes we do not. They are like all people; they are prone to error at times.

Mr. ADAMSON. I suppose he thought this committee looked like a good group to select hayseeds from. [Laughter.]

Mr. GREEN. Gentlemen, speaking seriously, some such method as that is likely, in my opinion, to prove far more effective for proper regulation of the seed trade of the country—of the grass seed trade of the country, as these gentlemen wish me to correct myself—than any such hearing as this in the brief time at our disposal.

Mr. TOWNSEND. Did I understand that improvements are being made all the while; that this is growing better constantly by the agitation you and these gentlemen are giving to the subject?

Mr. GREEN. I would not like to put it personally, that way. But things are growing better by the general agitation.

Mr. TOWNSEND. The farmers are gradually coming to understand that it pays to plant good seeds rather than weeds?

Mr. GREEN. Yes; and gradually becoming more and more willing to pay for them.

Mr. ESCH. How many States have regulations against seed adulteration?

Mr. GREEN. I do not know whether there is any gentleman here who could answer that question accurately or not. Mr. Boyles, could you?

Mr. BOYLES. I think Mr. Smith, our attorney, could answer it better than I. Probably there are 12. I think there were 5 bills introduced this winter.

Mr. ESCH. Is there any uniformity in the standards fixed by those States?

Mr. BOYLES. A few States have standards fixed, but most of them have not. Most of them have realized the unwise feature of standards.

Mr. GREEN. I am perfectly in earnest about this commission.

The CHAIRMAN. You are just wasting breath on it.

Mr. RICHARDSON. Do not think about a commission.

Mr. ADAMSON. I do not think you could pass any sort of a commission bill through the House now.

The CHAIRMAN. In view of the fact that no one can distinguish between many seeds that pay a duty under the tariff bill from those that come in free, we might refer it to the Tariff Board.

Mr. RICHARDSON. Take these gentlemen sitting around here; they have plenty of sense and they understand this seed business, and if they come and tell us a plain tale do you not think this committee can pass on it fairly?

Mr. GREEN. I have great confidence in the fairness of this committee.

Mr. RICHARDSON. They will pass upon it fairly after hearing you gentlemen giving facts and statements; we do not want any commissions.

Mr. GREEN. I have confidence in this committee. I do not care whether you have scientific men on it or not. But I would like to

get together with some men where I could have an interchange of views with them.

Mr. RICHARDSON. They would bring their report in and we would probably not pay any attention to it. But you come in here, practical men, talking common sense, and the committee has no other purpose than to do what is right for the good of the country, and we will pass on it all right, instead of having a commission.

The CHAIRMAN. We have been making progress in reference to this legislation, I think, do you not, Mr. Green?

Mr. GREEN. Yes; I think there is very marked progress.

The CHAIRMAN. On both sides?

Mr. GREEN. Yes.

The CHAIRMAN. The committee has learned some things and so has the seed trade.

Mr. GREEN. Yes, sir.

The CHAIRMAN. And we are much nearer now than we were when we reported the bill originally?

Mr. GREEN. Yes; unquestionably.

The CHAIRMAN. I think after awhile we will find you will come in here, as some people did the other day on another bill to which they were opposed some years ago, and all advocate a proposition.

Mr. GREEN. I think so.

Mr. RICHARDSON. I can tell you what you could expect if you got a commission. You would expect this committee to take the verdict of that commission and act on it.

Mr. GREEN. No; I would not expect that of any congressional committee. I would think that the report of that commission would receive due weight.

Mr. HUBBARD. You would expect them to agree with you, would you not, substantially, and if so, they would simply come here and say what you would say, would they not?

Mr. ADAMSON. You would like to know that the commission has your views when you parted, would you not? That is generally the situation.

Mr. GREEN. Yes.

Mr. RICHARDSON. You would give the commission your views, and you would expect them to carry them out.

Mr. ADAMSON. Nobody wants a commission except to adopt his views.

Mr. GREEN. Yes. We have great confidence in them, because we believe our views are right.

Mr. RICHARDSON. You see, we have seen all that demonstrated with other commissions, and we are tired of them.

Mr. GREEN. I am ready to yield the floor.

STATEMENT OF MR. CHARLES D. WOODS, DIRECTOR OF THE MAINE AGRICULTURAL EXPERIMENT STATION, OF ORONO, ME., REPRESENTING THE ASSOCIATION OF SEED ANALYSTS.

Mr. WOODRUFF. We next have a gentleman whom we have brought here. Some one criticized me for attempting to use the term "we have brought here"—we have invited here. He is here because we invited him, I suppose, not that we thought he was representing the seed trade at all, but this gentleman has had a world of experience in

seed testing, as a scientific man, and with the oldest seed law there is in the United States, I believe some 14 years. That gentleman is Dr. C. D. Woods, of Orono, Me., director of the Maine Experiment Station and also the president of the National Association of Seed Analysts. A year ago, December 19, 1909, we had a meeting in Boston at which were present some representatives of 15 different State experiment stations, I think, together with a large delegation of seed men, and this matter of seed viability and testing was thrashed out at that time, and Dr. Wood can tell you his ideas as to whether legislation affecting grass seeds can be equitably drawn; also affecting garden and flower seeds. He can tell you as to uniformities in testing seeds by the various experiment stations.

The CHAIRMAN. Suppose we hear him. Mr. Woods, of whom is that association composed?

Mr. WOODS. The Association of Seed Analysts is composed of men who are officially charged with the carrying out of laws, with the professors who are in the various institutions, such as State colleges and the Department of Agriculture, who are interested in the promotion of pure and improved seed; that is, it is an officially controlled body, coupled with scientific men who are not charged by law with its enforcement. It is not the function of this association to dictate legislation, or even to do very much suggesting along the lines of legislation; but inasmuch as seed legislation in America is comparatively new, they have considered at varying times the needs of a law. Relative to House bill 20373, I wish to submit a copy of the resolutions which were passed at the last meeting of this association to make part of the minutes of this hearing, at a convention held in this city in November last, in which they are thoroughly in accord with the provision of this bill.

(The document referred to will be found in the appendix.)

Before House bill 29163 was introduced, something over a year ago, the association had a meeting in Boston, gave very extended discussion to the principles which, in their judgment, should underlie the laws looking to the regulation of the seed trade, viewing them largely from the standpoint of the analyst as well as, to some extent, from the standpoint of the seed dealer. I wish to submit the abstract of that part of the proceedings, and wish to talk to just a few of the points relative thereto.

(The paper referred to will be found in the appendix.)

In the first place, with our present knowledge of methods, we believe it almost impossible to intelligently extend legislation to viability. Legislation can be extended, and properly administered, in our judgment, to purity, freedom from foreign matter, and adulterations. We are studying, in this association, methods of analysis with the thought of getting them uniform. Some of us, for instance, I myself, were trained as chemists and not as botanists. We began something over 30 years ago in this country legislation regulating the sale of commercial fertilizers, but when we began it was difficult to have an analysis made in Maine and in Illinois that would give the same results. An association was formed of official agricultural chemists, and out of that, with the appointment of referees and the study of methods, it has come about so that an analysis that is made in one laboratory on a sample of goods and another analysis that is made in another laboratory will correspond within reasonable limits.

The CHAIRMAN. Is there anything in this bill that would be objectionable to you from that standpoint?

Mr. WOODS. This bill seems to touch viability.

The CHAIRMAN. What is there objectionable in that? You do not believe in selling dead seed, do you?

Mr. WOODS. The objection to that is that to-day it could not be carried into operation, because you can not get viability tests that will agree. If I were the executive officer of a law similar to this in Maine, and I carried a case to the courts, the man would bring in identical samples with experts who would show that our analyses were wrong. We could not get a conviction, and I do not believe it is worth while to establish a law ahead of what can be done under it.

The CHAIRMAN. There is nothing in the bill which goes to the extent you speak of.

Mr. WOODS. Of viability? Yes, sir.

The CHAIRMAN. Not at all.

Mr. WOODS. Section 2 gives, as I understand it, the authority to the Secretary of Agriculture to establish standards, and there is no limit to the kind of standards he shall establish under this law.

The CHAIRMAN. There is nobody obliged to follow the standards under the bill.

Mr. WOODS. If he does not conform to the standards mentioned in section 6 he is liable to get in trouble.

The CHAIRMAN. Not at all; there is nothing of that sort in the bill.

Mr. WOODS. I am only trying to suggest these things. I did not come here with the thought of criticizing this particular bill.

The CHAIRMAN. I have no objection to your criticizing it; that is what we want.

Mr. WOODS. What I was endeavoring to bring up was to show the principles of men who have given a large amount of study to the seed situation in America, those principles which they think should underlie legislation.

Mr. RICHARDSON. The latter part of section 6 says this:

Which does not comply with the standards so published by the Secretary of Agriculture, shall be guilty of a misdemeanor, and for each offense be fined not exceeding one thousand dollars.

Mr. WOODS. It says so.

The CHAIRMAN. That is only where they use the words "United States standard." There is no obligation under this bill to use the standards fixed by the Secretary, and no suggestion of anything of that sort in the bill. It is advisable for people, before they come before the committee, to read the bills which they wish to talk about. The only thing there is in reference to viability is the provision in the bill on page 3:

Third. If any seed or bulbs contain, respectively, dead seed or dead bulbs or other matter in sufficient quantities to materially reduce the value for seeding or planting purposes.

Can you absolutely determine whether there are dead seed enough to materially reduce its value for seeding purposes?

Mr. WOODS. Very likely you would be able to; yes, sir.

The CHAIRMAN. Can you do it?

Mr. WOODS. Probably; yes, sir; in most cases.

The CHAIRMAN. Then there is another provision:

If there shall be knowingly added to seed any weed or dead seed.

That is a matter of proof. Do you think any man ought to be permitted to knowingly add weed seed or dead seed to his seed, and offer it for sale as pure seed?

Mr. WOODS. No, sir; and I do not think the word "knowingly" ought to be in the law at all, anywhere within it. The word "knowingly" in any law makes it impracticable to enforce it.

The CHAIRMAN. That is only put here out of regard for the seed trade. They would go wild if you talked about scratching it out.

Mr. WOODS. And the seed trade should insist, for their own protection, that the word "knowingly" be taken out. A law regulating any business that does not contain the powers of enforcement is a serious drawback and hindrance to the honest man in that business; and, consequently, section 1 of this law is absurd, viewed from the standpoint of the man who is required to enforce the law, because of the word "knowingly." It is exactly the same thing alluded to here by a member of this committee when it would be said a man would be given a big stick in a school, and then forbidden to use it.

The CHAIRMAN. I suppose on the subject of drawing criminal laws your judgment is valuable, but not conclusive.

Mr. WOODS. No, sir; but I have had a large amount of experience in the execution of criminal laws.

Mr. RICHARDSON. We would like to have your criticism of this bill.

Mr. WOODS. I would criticize the use of that word "knowingly." I would also criticize, in section 3, the extension of the bill to seeds other than agricultural. I do not believe that there should be any attempt made to extend the provisions of the bill, so far as purity is concerned, beyond that which the chairman has so clearly brought out, to seeds which can be distinguished in a laboratory, one from the other; and it is only seeds that have botanical differences that can be thus separated. It is not varieties that would be thus distinguished, but you can distinguish distinct species. It is perfectly possible for the expert to distinguish between Canada blue grass and Kentucky blue grass, although it would not be, probably, possible for any one of us here to do that off hand. It is absolutely impossible to distinguish between two at all alike varieties of peas. It is entirely impossible to distinguish between two at all alike varieties of sweet corn, in their general appearance, with any authority, so that you can pick them out in the laboratory. And so with the same cases that the chairman has so clearly pointed out here earlier. So that, from our standpoint, I believe it would be unwise to introduce into the law any seeds other than those which are agricultural, so far as purity is concerned. And that would include the grass seeds, oats, barley, cereals, and seeds of that type.

Mr. SIMS. That would exclude garden seeds, would it?

Mr. WOODS. That would exclude garden seeds from the operation of the law, in accordance with our best judgment of the seed analyses. Those are two particular points. Then the other point that I would try to enforce is that the laws which have worked the best in this country thus far have been true labeling laws rather than laws that have fixed standards. That is, instead of fixing a standard, each man, dealer or wholesaler, fixes his own standard; then the law sees that he lives up to that standard. That has led, in Maine, where we have had the law for 14 years, to enormous improvements in grass seed, and we are getting, as the men who supply Maine with grass

seed will testify, the cream of the grass seed of America, because we have had a law under which we have required that the percentage of purity should be stated openly. If one would fix a standard of purity for timothy, it would probably have to be as low as 98 or 97 per cent pure in order to meet the general trade conditions. But grass seed that is as pure as 97 or 98 per cent could hardly find its sale in Maine. It would have to be 99.6 per cent.

Mr. RICHARDSON. That is, when each purchaser was admonished it was that?

Mr. WOODS. Yes, when each purchaser was admonished it was that.

The CHAIRMAN. Do you not know that this bill contemplates that and provides for it?

Mr. WOODS. In a way, yes.

The CHAIRMAN. Absolutely; with no "in a way" about it.

Mr. WOODS. I do not see it as clearly as you do.

The CHAIRMAN. If you read the bill you will see it.

Mr. HUBBARD. Why not let him state what he means by "in a way"?

Mr. WOODS. There is the establishing of standards that are given in here, but I do not believe that, for instance, a law that was simply establishing a standard that would fit the average conditions of the grass-seed trade of America would be acceptable to our State law in accordance therewith.

Mr. RICHARDSON. As I understand it, you are criticizing the provision in this bill in reference to standards as being unreliable and unsafe?

Mr. WOODS. Yes, sir.

Mr. RICHARDSON. I would like to hear you go on on that line of criticizing the standards which are provided for in this bill.

Mr. WOODS. In the control of materials that have to do with food in which we should have to establish a minimum standard, for instance, as would be done with milk, I see no objection to standards. But in a commodity in which we are trying to encourage the farmer to buy the very best things he can buy, I believe if the thing were marked "United States standard" the man would think it was good enough for him, he would buy it, and that the United States standard that would be naturally established, in order to meet uniform average trade conditions, would not be good enough for the man who used seed in my own State, and, therefore, I would want them to be labeled squarely in place of standards, and show the percentage of purity. I think for that particular reason the standards idea would be better omitted.

Mr. HUBBARD. Could you not do both?

Mr. WOODS. You could do both.

Mr. HUBBARD. Would not that be the better plan?

Mr. WOODS. It does not seem so to me.

Mr. HUBBARD. You can see what the actual degree of purity was of that package, and also see that was at or above the United States standard?

Mr. WOODS. Yes.

Mr. ADAMSON. You want us to believe that the State of Maine is able to take care of itself on this subject better than the Federal Government regulations would do?

Mr. WOODS. I should very much prefer to have a Federal law in addition to our law, because there is practically no grass seed produced in Maine. It works a great hardship to Maine wholesalers, because they have to place their guarantees to-day on grass seed, and no man guarantees it to them.

Mr. RICHARDSON. Do you not think that with the Federal Government taking charge of a law of this kind all the States would gradually draw laws to conform to this law?

Mr. WOODS. Not if the law is poorer than the State laws. That is just where we are to-day with the national food and drugs act. The national food and drugs act was an enormous advance——

Mr. ADAMSON. Then, I understand the ground of your desire for Federal legislation is to try to make the others do as well as your State does?

Mr. WOODS. Yes, sir.

Mr. STAFFORD. Will you not continue your observation on the pure food law?

Mr. HUBBARD. You said it was an enormous advance.

Mr. WOODS. There was an enormous advance when Congress enacted the food and drugs act, in 1906. But in States that had better laws it has led to some confusion, and if I were in a State that had better laws—I am the executive officer of a law that is exactly the national law—if I were in a State that had a better law, much as I believe in uniformity of legislation I should be exceedingly sorry to have the law in my own State brought down to the level of the national law, and when you pass a seed law I would like to see it better than the average State law, so that we would get an inducement to build our laws in individual States, for the intrastate trade, better than they now are, rather than to try to get uniformity by making them poorer than they now are.

The CHAIRMAN. This law is a good deal more strict than the Maine law, is it not?

Mr. WOODS. In some particulars, yes; and in some particulars, not as good.

The CHAIRMAN. In what particulars is it not?

Mr. WOODS. In my judgment, that mere fixing of a standard——

The CHAIRMAN. There is no mandatory standard fixed in it at all.

Mr. WOODS. I know; but if the standard were fixed by the United States Department of Agriculture it would have a tendency to make a lower quality of seed sold in Maine to-day than there now is, because our seeds are better than any fair average standards could possibly be made. The seedmen tell me that if the demand for seed for the country over was the same as it is in Maine the country could not be supplied, because the seed is not produced. Therefore it is against Maine's interest to have a national seed law according to that.

The CHAIRMAN. Suppose you had several standards fixed for grass seed, and one of them a very high grade when a man sought to comply with that standard, put on the words "United States standard," and it was made so that he would have to comply with it, would not that aid you in keeping up the standard provided in your State?

Mr. WOODS. Provided it was clearly understood in my State what that standard meant.

The CHAIRMAN. Suppose it is advertised on the package just what the standard means, as it probably would be in many cases?

Mr. WOODS. You can not put very much on a package and have it read. I would like to have simply put on the law——

The CHAIRMAN. You can tell the percentages of purity.

Mr. WOODS. I would like to have that put on, and all that needs to go on the package of seed is the name of the seed and its percentage of purity, and then any man can understand it.

The CHAIRMAN. Suppose you had on a package of grass seed 98 or 99 per cent purity, United States standard; do you not think that would help you to get pure seed, or standard seed?

Mr. WOODS. It would help us to get standard seed, not the best seed.

The CHAIRMAN. What percentage would it be?

Mr. WOODS. It would depend altogether on the variety of seed.

The CHAIRMAN. I am speaking about the same seed. You spoke of one a while ago 97 or 98 per cent.

Mr. WOODS. If 97 or 98 per cent were put on our timothy as United States standard, it would tend to lower the quality of seed that is now used in Maine, in my judgment.

The CHAIRMAN. What is the highest standard of timothy seed in Maine now required under the law? *

Mr. WOODS. None.

The CHAIRMAN. So that, in stating 98 or 99 per cent, and knowing it was true to the standard—there is no penalty for lying about it——

Mr. WOODS. There is a penalty for lying about it.

The CHAIRMAN. What penalty is there?

Mr. WOODS. A fine.

The CHAIRMAN. But there is no requirement of it.

Mr. WOODS. There is a requirement that a man place his own guaranty, not the United States guaranty; but the man who puts out the seed must label it for what it is, and if he has lied, the penalty is up against him.

The CHAIRMAN. I understood you to say there was no requirement.

Mr. WOODS. You asked me if there was a requirement for grade. There is no requirement as to grade that shall be put upon it. A man may guarantee his seed 50 per cent pure, or he may guarantee it 99.9 per cent, if he chooses, but he must live up to the truth.

The CHAIRMAN. Suppose he puts on the guaranty, "United States standard," so that he may suffer from Federal punishment if it is interstate commerce; that does not interfere in any way in your State. It only lets people know they are getting that standard.

Mr. WOODS. I think you would get at exactly the same thing without putting the "United States standard" thereon, and putting on just the plain percentages that you require, which would not be misleading in any way to anybody.

Mr. HUBBARD. What is the actual standard of timothy as sold in Maine?

Mr. WOODS. We will get some timothy that will be sold down as low as 96 and 97 per cent pure; but the most of it will run up to 99 and higher.

Mr. HUBBARD. Your apprehension is that to put on there a statement of 97 or 98 per cent would tend to put into Maine a poorer quality of timothy?

Mr. WOODS. And put on "United States."

Mr. HUBBARD. That is what I mean.

Mr. WOODS. The words "United States" carry an enormous weight.

The CHAIRMAN. The trade knows that if it was on they would have to comply with the truth.

Mr. WOODS. And if we should appoint a commission that had to do anything to-day with the fixing of standards, as much as I prize the friendship of these men interested in the seed trade, they would like to make the United States standard as low as possible, so that as large a bulk of their seed trade as possible can go to the country as "United States standard."

Mr. ADAMSON. You think the name and power and glamor of the United States would help them to bring down their local regulations?

Mr. WOODS. They do. They would come to that.

The CHAIRMAN. Mr. Woods, there is a guarantee provision in this bill, the same as there is in the pure food law. You are familiar with the expression "Guaranteed under the pure food and drugs act?"

Mr. WOODS. Yes.

The CHAIRMAN. You are familiar with the fact, I suppose, also, that a great many people think that the Government guarantees the purity of those articles. You know that is not true?

Mr. WOODS. Yes.

The CHAIRMAN. You know that expression itself is a fraud on the public?

Mr. WOODS. And that, together with one or two interpretations of the law that have been made in high circles, has done more to harm the law than anything else that has come about.

The CHAIRMAN. But under this provision such a thing could not be done unless it complied with the real standard.

Mr. WOODS. That is right.

The CHAIRMAN. And yet you object to this.

Mr. WOODS. This is better than the food law.

The CHAIRMAN. This affects a present evil which everybody recognizes.

Mr. WOODS. This is vastly better than that.

The CHAIRMAN. We have not reached perfection yet. So you are opposing it.

STATEMENT OF MR. PATRICK O'MARA, OF NEW YORK CITY, REPRESENTING THE PETER HENDERSON CO.

Mr. WOODRUFF. We have just one more gentleman, Mr. Patrick O'Mara.

Mr. O'MARA. Mr. Chairman and gentlemen, to me has been assigned the small task of talking of flower seeds and bulbs. We ask that these be eliminated from House bill 29163, for the reason that they are very largely not distinguishable. As to flower seeds, for instance, petunias and verbenas are partially hybrids, and it is simply impossible to distinguish them by the grade; that is, distinguish one variety of petunia, one variety of verbenas, or one variety of phlox from another. The same is true of the great mass of bulbs. For instance, it is almost impossible—it is impossible—to distinguish every variety of hyacinth from every other variety of hyacinth; it is impossible to distinguish

every variety of tulip from every other variety of tulip; one variety of dahlia from another variety of dahlia; and so on ad infinitum, as we might say.

We have asked you, therefore, that, in connection with the vegetable seeds, the flower seeds and bulbs be eliminated entirely from the bill now before you, and very largely for the reasons stated. I doubt if it is necessary for me to take any more of your time. If there is any question you wish to ask me, I would be very glad to answer it.

The CHAIRMAN. The fact that you are not able to distinguish, and the purchaser is not able to distinguish, two kinds or varieties of seed when he purchases from you, is, in your judgment, sufficient reason why you should not be required to sell him what you offer to sell him?

Mr. O'MARA. We should not be compelled to guarantee and state positively that it is that particular variety.

Mr. STAFFORD. You sell it as that particular variety?

Mr. O'MARA. We label it as such, with the full knowledge and belief that it is such.

Mr. STAFFORD. And get the price for it?

Mr. O'MARA. And get the price for it. We take every precaution possible to take to see that it is such.

Mr. HUBBARD. Do you state on the label that possibly it is not true to the name?

Mr. O'MARA. No. There is a nonwarranty clause, which is well known to the committee.

Mr. KENNEDY. The facts you have stated to us are merely reasons why you ought to improve it. You are in a better attitude to know than the parties who purchase from you.

Mr. O'MARA. But the point is, for instance, say in a tulip or petunia, verbena, or anything else, I will assume you know from what has gone before we are not in a better position, because we can not distinguish any difference between varieties.

Mr. KENNEDY. You can buy from the honest raisers?

Mr. O'MARA. We ourselves are the honest raisers.

The CHAIRMAN. When you raise seed can you not distinguish?

Mr. O'MARA. Not one variety from another.

The CHAIRMAN. Then why do you offer to sell it as one variety or another if you do not know what it is?

Mr. O'MARA. We believe it is such.

The CHAIRMAN. What right have you to believe it when you raise it and can not tell? What right have you to believe it is something else?

Mr. O'MARA. We have a right, I think; our name and reputation goes on it that it is such, and as the best proof of this, I think I am justified in saying—

The CHAIRMAN. You say you raise it, and you do not know what it is?

Mr. O'MARA. I do not say that.

The CHAIRMAN. Are you able, when you raise seed, to tell what it is?

Mr. O'MARA. I think we should not be compelled to guarantee it, because the accidents of mixture—many accidents over which we have no control—make it impossible for us to tell.

Mr. HUBBARD. Can you not control that accident? Can you not prevent mixture with something else?

Mr. O'MARA. Not absolutely.

The CHAIRMAN. There is nothing here that requires absolute correctness; nobody would suggest it.

Mr. O'MARA. For instance, a man may put a \$5 gold piece into his pocket with his other change. He does not intend to give it away for a penny, but he does so.

The CHAIRMAN. If he does, he suffers; does he not?

Mr. O'MARA. Yes; to that extent.

The CHAIRMAN. Nobody makes it up to him?

Mr. O'MARA. No.

The CHAIRMAN. But you want to be able to do it and not suffer.

Mr. O'MARA. We do not try to do it.

The CHAIRMAN. You said you do it. Nobody wants to injure you. When you raise seed you can tell what it is, can you not?

Mr. O'MARA. We certainly can, while it is growing; but when we take it off the bush we put it in a bin and label it. We have every reason to believe it is that seed; we know it is, in fact. We sow it ourselves; then it passes out of our hands, and to ask us to follow it up to its very last result would be unjust.

The CHAIRMAN. You do not have to follow it after it passes out of your hands at all.

Mr. O'MARA. My understanding was that we would be asked to follow it to its very last analysis.

Mr. KENNEDY. Do these hybrid plants produce seeds that grow the same kind of species every time, or is there some eccentricity in the seed they reproduce?

Mr. O'MARA. They are all liable to variation.

Mr. SIMS. As I understand you, there are such natural variations that would preclude your being prosecuted criminally for those variations?

Mr. O'MARA. Yes, sir.

Mr. HUBBARD. But I do not understand that those natural variations are such that you do not know what it is you are raising.

Mr. O'MARA. We can not tell what they are until the flower is produced. Take sweet peas, for instance. Any man here knows that, even with the greatest care taken in the selection, the results will vary. No man can tell beforehand what the result is going to be. The variation is there, implanted by nature or God in the variety itself.

Mr. HUBBARD. But it is none the less that thing? Whatever it may be, it is a certain thing, and you say what that is. That is all the bill asks you to do, is it not?

Mr. O'MARA. It is the progeny of what we sow, and we believe it to be the same; but it is liable to variation and we could not guarantee it is absolutely identical.

Mr. HUBBARD. You are not asked to guarantee what sort of flower it will produce, and to guarantee what this thing is. Other people know as well as you that when they grow that they may find these variations. That is not any reason why you should not say what that thing is.

Mr. O'MARA. We say what it is when we label it as such, and do it to the best of our knowledge and belief.

Mr. HUBBARD. Why not guarantee what it is.

Mr. O'MARA. Suppose, for instance—if I am not taking up too much of your time—over in Holland the bulbs are growing in beds, hundreds of thousands of them, 15 or 20 or more men digging them. One bulb is dug; the label is put on, the men take it into the warehouse; the same man—you can not control every man—lapses in his close attention to the detail, and accidentally puts the label on the wrong pile. The damage is done right there, and it is irreparable.

The CHAIRMAN. A great many people do things they are punished for. Suppose he slips and breaks his leg; he can not get rid of the punishment.

Mr. O'MARA. But I think the cases are hardly analogous.

Mr. SIMS. You do not think an American citizen ought to be indicted and punished for what that foreigner who sold them to him did?

Mr. O'MARA. Hardly.

STATEMENT OF MR. K. FARQUHAR, OF BOSTON, MASS., REPRESENTING R. & J. FARQUHAR & CO.

Mr. FARQUHAR. Mr. Chairman and gentlemen, I come before you as one who is engaged in the seed business, and one who is engaged in a peculiar kind of seed business. We have been in business in Boston for about 29 years and we have never advertised, with the exception of having an advertisement, perhaps, in our local Boston papers, and, I think, one horticultural Boston paper, which we have supported—the Boston Transcript—and one Boston horticultural paper. We have not had men on the road and we have had a steady increase in business. In fact, our business to-day is five times what it was 12 years ago.

Speaking from my own experience, I am perfectly satisfied that the seed situation throughout this country is improving, and that it will improve irrespective of any legislation. I am also satisfied that people, through education by the Department of Agriculture, through the education of State colleges, are appreciating the value of good seeds. This is a matter in which we are, in this country, mere apprentices. We know very little about seeds. When we say that grass seed should be 3 per cent pure and penalize grass seeds that do not come up to that standard, we want to go over and take lessons from the older countries that have been studying this thing for years. We want to go to Zurich. We must acknowledge that without the painstaking chemist in Germany analyzing his beets, our sugar beet industry would stop within a year. We are taking lessons. Our college textbooks are being largely composed from translations from other countries, and of matter which is not always applicable to this country.

You come to standards of grass seeds. I am safe in stating that the average grass seed we buy is fully up to the Maine standard Mr. Woods speaks of. But when it comes to certain grass seeds, even in critical Germany, where this thing is under wiser legislation than any we are likely to adopt in a generation to come, there are many kinds of grass seeds there. Take some of the bends, for instance. They are very glad to get a standard of 70 per cent of purity. And yet these seeds are of great value.

The CHAIRMAN. When you say 70 per cent of purity, what do you mean?

Mr. FARQUHAR. I mean 70 per cent of pure seeds in that standard.

The CHAIRMAN. Of weed seeds?

Mr. FARQUHAR. Perhaps other grasses.

The CHAIRMAN. But you kick on 30 per cent of weeds.

Mr. FARQUHAR. I should kick on 30 per cent of weed seed, yes, sir, and for that reason. And still these grasses are of great value, and if we want to import these grasses here which have the highest standards that could be had—in fact, there are more of the European grass seeds that are now being used by scientific farmers; they have been long used on the golf courses, and they measure up to these standards, and yet meet the European standards. Even in this country we have conditions that this bill does not meet. We have, for instance, a man who is raising redtop for a crop. The farmer allows a lot of daises to grow through his field. The daisy seed is of the same size as the redtop seed, and of the same weight; it is of the same texture as the redtop seed, and there is no means of separating it now from the redtop seed. I think, perhaps, if the penalty of this bill is put off for eighteen centuries in place of 18 months, they may then, through human ingenuity and scientific, mechanical application, get machinery that may be sensitive to color.

The CHAIRMAN. You think if a man buys redtop seed he ought to get half of it daisy seed?

Mr. FARQUHAR. I beg your pardon.

The CHAIRMAN. That is what your argument was.

Mr. FARQUHAR. My argument is that the seed man is being penalized in place of the farmer, who can distinguish the daisy easily in his field, and that the penalty comes on the seedsman, who has no possible means at his command of separating these seeds.

The CHAIRMAN. Can you not distinguish the daisy seed from the redtop seed?

Mr. FARQUHAR. Yes, sir; I can distinguish it by color, but I can not separate it.

The CHAIRMAN. But you can distinguish it. Do you think if a man buys redtop seed from you, for instance, on the farm where there are no daisies, you ought to be permitted to furnish him with daisy seed which may be a very annoying weed to him, the perennial daisy?

Mr. FARQUHAR. I will say I am going to search for the cleanest sample of redtop I can find on the market and sell him that.

The CHAIRMAN. You may; but all people do not do that. Do you not think there ought to be a law so that people will not be permitted to harvest daisy seed with redtop seed, and sell it as redtop seed?

Mr. FARQUHAR. I would like to see such a law; but that law must apply to the farmer and not to the seedsman.

Mr. STEVENS. The seedsman does not have to buy, does he?

Mr. FARQUHAR. He has to get something or people will go without seeds.

The CHAIRMAN. There are plenty of places in the country where redtop is raised where there are now daisies grown.

Mr. HUBBARD. How does the seedsman buy? If he sees the crop growing does he not see the daisies growing?

Mr. FARQUHAR. He buys by samples, and he can distinguish the daisy seed.

Mr. HUBBARD. So that when he buys he knows it is adulterated?

Mr. FARQUHAR. When he buys he knows it is adulterated.

Mr. HUBBARD. And he sells it, not as adulterated seed, but as redtop.

The CHAIRMAN. He sells it as lawn-grass seed, or something like that.

Mr. FARQUHAR. I think it would be impossible to get a sample of redtop to-day that is absolutely free from some daisy seed.

The CHAIRMAN. That is easy enough out in our country in the West.

Mr. FARQUHAR. We do not see it.

The CHAIRMAN. You see very few daisies out there; you see plenty of redtop seed.

Mr. FARQUHAR. I will admit that. I have been over the West, and I have seen the daisies there, and the redtop, and I have seen the finest samples of Illinois redtop from that district, and I should very much like to see one sample that is entirely free from daisy seed. Taking a bag and going over it, I would like to see one sample that does not contain a considerable quantity of daisy seeds.

The CHAIRMAN. You could find plenty of them, although we are getting daisy seed in our country largely because of the adulteration of redtop seed with the daisy seed. The daisies do a tremendous lot of injury in this part of the country, and yet you want to put them on us; and your course of business will put them on us, and when we object, you say, "Well, you ought to take them."

Mr. FARQUHAR. I beg your pardon. We are most anxious to have the farmers clean their fields and give us clean seeds, and we are willing to pay a substantial increase for clean seed.

Mr. HUBBARD. Do you not think that would come about if you could not sell this stuff that comes from the farmers; if you could not sell it you would not buy it, and if they could not sell it they would raise something else, not daisies.

Mr. FARQUHAR. We do not buy it.

Mr. HUBBARD. But you take it knowing that daisy seed is in it.

Mr. FARQUHAR. We do not take it unless we think it is well above the requirements of this bill.

Mr. HUBBARD. I understand you advocate getting along without a law. Is not the only way for you to do that to refuse to buy from the farmer if his seed has daisy seed in it?

Mr. FARQUHAR. Yes, sir; we do that.

Mr. HUBBARD. You do refuse to buy it?

Mr. FARQUHAR. We want the minimum quantity; we can not get it absolutely free; it does not exist.

Mr. HUBBARD. You are speaking of yourself. Do you know that others do not buy seed that has a larger percentage of the impurity in it?

Mr. FARQUHAR. I do not know what other people are doing; I know what we are doing. I have reason to believe, in fact, I know, that the country can not be supplied with a pure seed.

Mr. HUBBARD. There are only two remedies for this condition, are there not? One is the law and one is the action of the seedsmen in not buying the seed from the farmer?

Mr. FARQUHAR. I think the second suggestion is the practical one.

Mr. HUBBARD. But if the daisy seed is spreading to the West, that method is not working properly, is it?

Mr. FARQUHAR. A little labor on the part of the farmer would save that trouble.

Mr. HUBBARD. How are you going to make him put that labor in?

Mr. FARQUHAR. It is a difficult matter.

Mr. HUBBARD. If there was a law, it might possibly be worked out so as to make him do it. If you are forbidden to sell this stuff you will quit buying from the farmer, and he would quit it.

Mr. FARQUHAR. The law would have to apply to the farmer.

Mr. HUBBARD. If the law forbids you from selling it, you will not buy it, will you?

Mr. FARQUHAR. No, sir.

Mr. HUBBARD. Then the farmer will see that there is no daisy seed in there, because he can not sell it to you?

Mr. FARQUHAR. I should judge it would come to that.

Mr. HUBBARD. It can not come to that unless there is some law, can it?

A GENTLEMAN. The farmer could sell to his neighbor.

Mr. HUBBARD. What neighbor?

The GENTLEMAN. On his own place.

Mr. HUBBARD. If the seedsman does not buy from the neighbor, we are in the same position.

The CHAIRMAN. The neighbor would know where the daisies were.

Mr. FARQUHAR. There are many seeds that are of great value in this country, the meadow mixtures and the like. These would be much below 65 per cent standards, and yet, for reclaiming many of our low meadows which are submerged a portion of the year, would be of immense value. These would be excluded under this bill. It would be unlawful to handle them.

The CHAIRMAN. Why would it be unlawful to handle them?

Mr. FARQUHAR. Because, on page 3, at line 11, it says:

If any seeds or bulbs purporting to be of one kind or variety contain more than five per centum of another kind or variety.

Mr. HUBBARD. Suppose your label did not represent them to be of one kind?

The CHAIRMAN. He does not read the proviso, which absolutely covers the case. That is the trouble with gentlemen who come here. They read a line and stop, and do not read the rest of the bill.

Mr. HUBBARD. He did not even go to the proviso in this case.

Mr. FARQUHAR. I would say, Mr. Chairman, that this matter of labeling in this way entails more time than the seed trade will admit of. A great many of these seeds are harvested in Europe, and it is all we can do to get them here in time for sowing or packing. It takes time to do all that labeling and testing, and all that sort of thing. We have to rely on the best growers there, and their honesty, and we suffer.

The CHAIRMAN. Suppose you take a guaranty, then?

Mr. FARQUHAR. We can not get it; that is the trouble.

The CHAIRMAN. You do not know about that.

Mr. FARQUHAR. We know we can not get such guaranty.

The CHAIRMAN. That is what the food people told us. We heard all the same argument about that when we were considering the pure-

food legislation. Everyone now admits he was mistaken. They have no trouble at all on the subject.

Mr. FARQUHAR. I think, Mr. Chairman, that the tendency to-day, the demand for better seed, the general improved conditions in the seed trade, the elimination of those who are selling inferior seeds—and they are being forced out of the business—will bring about the results that this bill aims at, and I think the seed business is largely one of confidence.

The CHAIRMAN. There is no change in the kind of confidence from what it was 50 years ago; people have not changed. It was just as much a matter of confidence 50 years ago as it is now.

Mr. FARQUHAR. I beg your pardon there. I think the improvements within the last decade, in fact, within the last 5 years, have been more than the improvements during the preceding 45 or 50 years.

The CHAIRMAN. There has been a great improvement in the seed trade since the Government got active. That was not because the seed trade got active in the matter, in the first place; it was after the Agricultural Department went to work, and when we introduced some pure-seed bills. I have no criticism; it is human nature; it is not the best ones who require this legislation, it is the poorest ones. But they commenced, then, to appreciate the absolute necessity of driving out of business some of the fake and fraudulent people who were engaged in the seed business.

Mr. FARQUHAR. I admit that, and I believe that that is sufficient of itself, without this bill, to bring about the result that this bill aims at.

The CHAIRMAN. Where a seedsman is selling seed knowing it has some particular kind of weed seed in it, is there any good reason why he should not put that fact on the label?

Mr. FARQUHAR. Yes; in some cases. It would intimidate a man from buying that seed, when perhaps it was perfectly suited to his purpose, and when he would probably go off and buy something worse from some other place.

Mr. HUBBARD. He could not, if this law was in force, without knowing he was buying something worse.

Mr. FARQUHAR. I do not see that the law could prevent it.

Mr. HUBBARD. It would prevent it; if it was violated, that man would be subjected to punishment.

Mr. FARQUHAR. The seeds that all the better seedsmen do handle—

Mr. HUBBARD. Assume that we are not after the better seedsmen, but those who are the worst, if there are any such.

Mr. FARQUHAR. I think those are so in the minority; one gentleman stated to-day that he represented 90 per cent.

Mr. WHITE. Grass-seed trade.

Mr. FARQUHAR. I want to say I am outside. I do not happen to be a member of that organization; I am in the 10 per cent, so that there is less than his 10 per cent who are really selling bad seed.

The CHAIRMAN. Do you think you can buy the lawn seed put up in pound packages from any house in America without getting a large percentage of weed seed in it?

Mr. FARQUHAR. Yes, sir.

The CHAIRMAN. Name the house. I want to send and get some and have it analyzed.

Mr. WHITE. I will send you some over.

The CHAIRMAN. I have had yours analyzed. I got lots of weed seed out of yours.

Mr. FARQUHAR. I will send you a sample.

The CHAIRMAN. I do not want you to send me a sample; I want to know the house where I can buy it in the open market.

Mr. WHITE. You are perfectly free to buy it of us and have it analyzed.

The CHAIRMAN. I bought some of it.

Mr. FARQUHAR. The name of our house has never been mentioned in the Government reports as selling anything below the requirements.

The CHAIRMAN. The Government reports do not mention very many people.

Mr. FARQUHAR. I think they mention nearly 300.

The CHAIRMAN. They did several years ago on the foreign grass-seed question.

Mr. FARQUHAR. And I think we are not the only ones.

Mr. KENNEDY. There are some lands where, if a weed gets started, it does more damage than that same weed would do in other localities.

Mr. FARQUHAR. That is quite true.

Mr. KENNEDY. Some places where the white daisy can scarcely be eradicated when it is once started.

Mr. FARQUHAR. That is true.

Mr. KENNEDY. Would it not be of great benefit to the farmer if he might be advised by the seed labeling—have some guaranty that he would know he was not getting that sort of a weed started on his farm? Where the seed seller knows that there is a certain quantity of a harmful weed that might do no particular harm in some localities, but would practically ruin a farm in others, why should he not put that information on his seed package?

Mr. FARQUHAR. Speaking for myself, we should not want to sell him anything that would in any way be detrimental to his land; we would not fill his order if we did.

Mr. KENNEDY. I know; but you have.

Mr. FARQUHAR. I do not know of a case.

The CHAIRMAN. You said awhile ago you sold redtop seed with daisy seed.

Mr. FARQUHAR. It would be less daisy than is required in this bill.

The CHAIRMAN. But it does not take very much daisy to spread.

Mr. FARQUHAR. No, sir; if the farmer is negligent and allows it to.

The CHAIRMAN. Negligent? You can not help it, if it is in a meadow, or some place like that.

Mr. FARQUHAR. I think in the case of grass seeds there are certain seeds that can be standardized; there are others that can not be. If this bill should go through in that form, it would be the means of keeping out a great many of these grasses that are now being used by the experiment stations and by the farmers in the country.

The CHAIRMAN. What is there in the bill that would prevent it?

Mr. FARQUHAR. It would prevent some of the bend grasses coming in and some of the meadow grasses.

The CHAIRMAN. What is there in the bill that would prevent that?

Mr. FARQUHAR. I understand this 5 per cent clause would.

The CHAIRMAN. Not at all. There is absolutely nothing in the bill that would prevent the use of any kind of a seed if people are honest enough to tell what it is.

Mr. FARQUHAR. Keep it out of the country.

The CHAIRMAN. On the importation?

Mr. FARQUHAR. We can not get these grasses here; they will never reproduce here.

The CHAIRMAN. This bill, so far as importation is concerned, is practically the same bill as the one that the American Seed Trade Association itself prepared, which I introduced, and which they are now advocating.

Mr. FARQUHAR. In this case I am speaking for myself; I am not speaking for that association.

The CHAIRMAN. You do not agree with them?

Mr. FARQUHAR. I have not read that bill which they advocate.

The CHAIRMAN. Do you think we ought to prevent the importation of foreign adulterated seed?

Mr. FARQUHAR. No, sir.

The CHAIRMAN. You think we ought not to prevent it?

Mr. FARQUHAR. We ought not to prevent the importation of grasses that are of that kind, even if they have a percentage of untrue seeds.

The CHAIRMAN. You think we ought not to regulate it at all?

Mr. FARQUHAR. I think that might be done, and I think it is now done by the Department of Agriculture to a sufficient degree, when they take our samples from our packages and report upon them.

The CHAIRMAN. They do that under an annual appropriation?

Mr. FARQUHAR. Yes, sir.

The CHAIRMAN. It would make it a permanent law. That is all.

STATEMENT OF CHARLES DICKINSON, OF CHICAGO, ILL., REPRESENTING THE ALBERT DICKINSON CO.

Mr. DICKINSON. Mr. Chairman, I must differ with Mr. Farquhar in regard to our not closing the doors to the possibility of the foreign traveler coming over and going to the trade who have no knowledge of these iniquitous weed seeds—that is the only word I can use—and I think the doors should be closed. Mr. Reynolds stated those selling good seed were 80 or 90 per cent, but I think I am safe in saying, as Kirby White, of the D. M. Ferry Co., said, that our association represents 98 per cent, and had you asked Mr. Farquhar the percentage of the grass-seed business of the United States, I think that would have solved the problem.

The CHAIRMAN. Is there anyone else who desires to be heard on either of these bills? I think I might say that I have some information which we may publish, and we will, probably, have hearings later from some of the officials of the Government; besides which I have some investigations being carried on in reference to both the sale of seeds of different kinds, and the importation of seeds under the tariff law, which may or may not be very interesting in the course of time; I do not know.

(Thereupon, at 12.30 o'clock p. m., the committee adjourned.)

APPENDIX.

[Suggested revision of H. R. 20373, Sixty-first Congress, second session.]

A BILL To prohibit the importation into the United States of adulterated seed and seed unfit for planting.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the importation for seeding purposes into the United States of seeds of alfalfa, barley, Canadian blue grass, Kentucky blue grass, brome grass (awnless), buckwheat, alsike clover, crimson clover, red clover, white clover, field corn, Kafir corn, meadow fescue, flax, millet, oats, orchard grass, rape, red top, rye, sorghum, timothy, vetch, and wheat which are adulterated or unfit for seeding purposes within the meaning of this act is hereby prohibited, and the Secretary of Agriculture and the Secretary of the Treasury shall jointly or severally make such rules and regulations as will provide for the exclusion of such seeds from the United States: *Provided*, That such seeds may be delivered to the owner thereof under bond, to be recleaned subject to such regulations as the Secretary of the Treasury may provide, and when recleaned to the standard of purity specified in sections two and three of this act they may be released to the owner thereof, but the screenings removed from such seeds must be disposed of in a manner to be prescribed by the Secretary of Agriculture.

SEC. 2. That seed shall be considered adulterated within the meaning of this act: First, when seed of red clover contains more than three per centum of seed of yellow trefoil or any other seed of similar appearance to and of lower market value than seed of red clover; second, when seed of alfalfa contains more than three per centum of seed of yellow trefoil, burr clover, or sweet clover, singly or combined; third, when any kind or variety of the seeds named in section one of this act contains over five per centum of seed of another kind or variety of lower market value and of similar appearance: *Provided*, That the provisions of this paragraph shall not apply to mixtures of white and alsike clover, red and alsike clover, alsike clover and timothy.

SEC. 3. That seed shall be considered unfit for seeding purposes within the meaning of this act: First, when any kind or variety of clover or alfalfa seed contains more than one seed of dodder to five grams of clover or alfalfa; second, when any kind or variety of the seeds named in section one of this act contains more than three per centum, by weight, of seeds of weeds.

[Suggested revision for H. R. 29163, Sixty-first Congress, third session.]

A BILL To regulate commerce among the States and with foreign nations, and to prevent the transportation of adulterated and misbranded seed, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the introduction into any State, Territory, or District of the United States from any other State, Territory, or District, or from any foreign country, of any seed adulterated or misbranded, within the meaning of this act, is hereby prohibited; and any person who shall knowingly ship or deliver for shipment from any State, Territory, or District of the United States to any other State, Territory, or District of the United States, or who shall receive in any State, Territory, or District from any other State, Territory, District, or foreign country, and having so received shall knowingly deliver or offer to deliver in original unbroken package, for pay or otherwise, to any other person any seed adulterated or misbranded, within the meaning of this act, shall be guilty of a misdemeanor, and for such offense be fined not exceeding one hundred dollars for the first offense and for each subsequent offense be fined not exceeding three hundred dollars in the discretion of the court: *Provided, however*, That this act shall not apply to seed to be used solely for propagation or testing and not for sale or distribution: *And provided further*, That nothing in this act shall be held to prohibit the transporting, handling, storing, and bulking of seed for the purpose of being cleaned, mixed, graded, or labeled before being offered for sale for seeding purposes.

SEC. 2. That the Secretary of Agriculture shall make uniform rules and regulations for carrying out the provisions of this act.

SEC. 3. That the term "seed" as used in this act shall include grass, clover, forage plant, and other agricultural seeds intended for seeding purposes.

SEC. 4. That for the purposes of this act seeds shall be deemed to be adulterated—

First. If seed purporting to be orchard-grass seed shall contain more than three per centum of seed of rye grass or meadow fescue; if seed purporting to be Kentucky blue-grass seed contain more than three per centum of seed of Canada blue grass; if seed purporting to be red-clover seed contain more than three per centum of seed of yellow trefoil; if seed purporting to be alfalfa seed contain more than three per centum of seed of yellow trefoil, burr clover, and sweet clover, singly or combined; or if any seed purporting to be of one kind or variety contain more than five per centum of another kind or variety distinguishable in the seed: *Provided*, That no seed shall be deemed to be adulterated, within the meaning of this paragraph, when accompanied by a statement or label in the form and manner prescribed by the rules and regulations in this act provided for, giving the names and approximate amounts or proportions of the kinds or varieties of seed contained therein.

Second. If seed of any kind or variety of clover, alfalfa, or flax contain more than one seed of dodder to five grams of seeds of clover, alfalfa, or flax, respectively; or if any seed contain weed seed to an extent which renders it unfit for seeding purposes: *Provided*, That the provisions of this paragraph shall extend only to seed imported from a foreign country.

Third. If there shall be knowingly added to seed any weed seed or dead seed, or any other matter materially reducing its value for seeding purposes: *Provided*, That it shall not be construed as a violation of this paragraph to blend different lots of seed of the same kind or variety which are not themselves adulterated, within the provisions of this act, or to mix different kinds or varieties of seed when named and labeled so as to plainly show the same to be a mixture.

SEC. 5. That, for the purposes of this act, seed shall be deemed to be misbranded—

First. When one kind or distinguishable named variety of seed shall be offered for sale under the name of another kind or distinguishable named variety of seed.

Second. If in package form and the quantity of the contents is stated, they are not plainly and correctly stated in terms of weight, measure, or count, or if the package shall not plainly show the year in which the seed was packeted.

Third. If the seed be falsely labeled or branded as to the State, Territory, locality, or country in which raised or produced.

Fourth. If the package containing it or its label shall bear any statement, design, or device concerning the seed contained therein which statement, design, or device shall be false or misleading in any material particular, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package.

SEC. 6. That no dealer shall be prosecuted under the provisions of this act when he can establish a guaranty, signed by the wholesaler, jobber, producer, or other party residing in the United States from whom he purchased such articles to the effect that the same are not adulterated or misbranded within the meaning of this act, designating it. Said guaranty to afford such protection shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines, and other penalties which would otherwise attach in due course to the dealer under the provisions of this act; but it shall not be lawful to place on any package or container of seed any label showing that the same are guaranteed under this act unless such label further shows that the guaranty is by the producer or wholesale or other dealer, nor unless such label further complies with the rules and regulations to be made by the Secretary of Agriculture, as herein provided for.

SEC. 7. That if any seed that is knowingly adulterated or misbranded within the meaning of this act and is being transported from one State, Territory, or District to another for sale, or, having been transported, remain unloaded, unsold, or in original unbroken packages, or if the same be sold or offered for sale in any Territory or District, or are imported from a foreign country for sale, shall be liable to be proceeded against in any district court of the United States within the district where the same are found, and seized for confiscation by a process of libel for condemnation. And if any such seed is condemned as being adulterated or misbranded, within the meaning of this act, the same shall be disposed of by destruction or sale, as the court may direct, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the United States: *Provided, however*, That upon the payment of the cost of such libel proceedings and the execution and delivery of good and sufficient bond to the effect that such seed shall not be sold or otherwise disposed of contrary to the provisions of this act, or the laws of any State, Territory, or District, the court may, by order, direct that such seed be delivered to the owner thereof.

The proceedings of such libel cases shall conform, as nearly as may be, to the proceedings in admiralty, except these notices of such seizure shall be served by the marshal to whom the monition in the libel proceedings has been delivered, on the owner, consignor and consignee of said seed either by actual delivery to said person or persons or by registered letter, and immediately after seizure of the seeds, and the return of the marshal on said monition shall state that such personal or written notices were duly served, and except that either party may demand trial by jury of any issue of fact joined in any such case, and all such proceedings shall be at the suit of and in the name of the United States.

SEC. 8. That the Secretary of the Treasury shall deliver to the Secretary of Agriculture, upon his request, from time to time samples of seed being imported into the United States or offered for import, giving notice thereof to the owner or consignee, who may appear before the Secretary of Agriculture and have the right to introduce testimony, and if it appear from the examination of such samples that any seed offered to be imported into the United States are adulterated or misbranded within the meaning of this act, or are otherwise falsely labeled in any respect, or are intended for adulteration purposes, the said seed shall be refused admission under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That the Secretary of the Treasury may deliver to the consignee such seed, pending examination and decision in the matter, on execution of a penal bond for the amount of the full invoice value of such seed, together with the duty thereon, and on refusal to return such seed for any cause to the custody of the Secretary of the Treasury when demanded, for the purpose of exclusion from the country, or for any other purpose, said consignee shall forfeit the full amount of the bond: *Provided further*, That such seed may be recleaned in accordance with such rules and regulations as may be prescribed by the Secretary of Agriculture, and when so recleaned as to comply with the provisions of this act the seed shall be released to the consignee or owner, but the screenings removed from such seed shall be disposed of in the manner prescribed by the Secretary of Agriculture.

SEC. 9. That the term "Territory" as used in this act shall include the insular possessions of the United States. The word "person" as used in this act shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies, and associations. When construing and enforcing the provisions of this act, the act, omission or failure of any officer, agent, or other person acting for or employed by any company, corporation, society, or association within the scope of his employment or office shall in every case be also deemed *prima facie* to be the act, omission, or failure of such corporation, company, society, or association as well as that of the person.

SEC. 10. That this act shall be known, described, and designated as the agricultural pure seed act of 1911.

SEC. 11. That this act shall take effect and be in force from and after its passage, except that no penalty of fine, or confiscation shall be enforced for any violation of its provisions occurring prior to the expiration of eighteen months after its passage.

RESOLUTION ADOPTED AT THE THIRD ANNUAL MEETING OF THE ASSOCIATION OF OFFICIAL SEED ANALYSTS HELD NOVEMBER 14,15, 1910, AT WASHINGTON, D. C.

Whereas Canada has a strict seed-control law which prohibits the sale in that country of low-grade seed but specifically provides for its export; and

Whereas France and the Argentine Republic forbid the introduction into these countries of clover and alfalfa seed containing seeds of dodder; and

Whereas the conditions in Germany, Austria, Switzerland, Belgium, Holland, Denmark, Norway, and Sweden are such that large quantities of low-grade and worthless seed, for which there is no ready local market, are collected in the large seed handling centers for export; and whenever the price of clover and alfalfa seed in this country is high, large amounts of such low-grade European seed are imported for the purpose of mixing with other seed in order to create low grades for sale in American markets; and

Whereas we believe the introduction into this country of this class of seeds is a positive menace to our agriculture: Therefore be it

Resolved that the Association of Official Seed Analysts favors the immediate passage of such legislation as may be necessary to prevent the introduction into the United States of forage plant seeds containing such large proportions of weed seeds or dead seeds or other matter that they are of little or no value for agricultural purposes.

REPORT OF THE COMMITTEE ON SEED LEGISLATION OF THE ASSOCIATION OF OFFICIAL SEED ANALYSTS.

The following report, being recommendations to serve as a basis for uniform State seed legislation, made by the committee to the association at its second annual meeting, held in Boston December 28-29, 1909, by Dr. C. D. Woods, chairman, and Dr. L. H. Pammel, was unanimously adopted:

Scope of the law.—Law at present to contemplate only purity. It is deemed inadvisable to include vitality until methods of making germination test are satisfactorily worked out.

The guaranty.—Each lot or package to be accompanied by a plainly written or printed statement giving the name of the seed and the percentage of purity (freedom from foreign matter of all kinds).

Methods of analysis.—The methods of analysis shall be the methods adopted at the time by the Association of Official Seed Analysts.

Analyses.—Analyses shall be made for persons resident within the State at a fixed charge sufficient to cover the cost.

Kind of seeds.—Principal agricultural seeds. Not to apply to horticultural seeds nor to rare and unusual seeds; the kinds of seeds to be named in the law. The list would vary somewhat with the State, but in general would include seeds of alfalfa, barley, Canadian bluegrass, Kentucky bluegrass, brome grass, buckwheat, alsike clover, crimson clover, red clover, white clover, medium clover, field corn, Kafir corn, meadow fescue, flax, millet, oats, orchard grass, rape, redtop, rye, sorghum, timothy, and wheat.

Amount of seed.—Seed in lots of 10 pounds or more.

Noxious weeds to be prohibited or restricted in amount.—Certain noxious weed seeds to be excluded in States where they are a public menace. Certain noxious seeds to be permitted if their presence and amount is plainly stated.

Claim for damage by user.—Any claim for damage because of quality of seed must be made before the seed is sown, and within a reasonable time after purchase.

Funds for enforcement.—To be provided by a liberal State appropriation.

Exemptions from law.—Seeds sold for food purposes. Uncleaned seeds in the hands of the growers or middlemen on the way to the cleaners (if free from prohibited seeds and marked "uncleaned").

Private hearings.—All violations to be investigated by means of a private hearing before prosecution is begun.

Penalty.—Fine and not imprisonment.

Publicity.—Results of inspection and analyses to be published only in case of direct knowledge, such as would be admitted in court as evidence.

Inspection.—Authority to inspect, collect samples, and analyze to be given the executive officer in person or by deputy.

Executive.—To be in accord with practice of State with similar laws. The Department of Agriculture, a commissioner, or station director.

Form of law.—The law in the different States to conform in language, etc., to other similar laws, as those regulating the sale of feeding stuffs, fertilizers, foods etc.

PAPER SUBMITTED BY MR. ALBERT M'CULLOUGH IN REGARD TO HOUSE BILL 20373.

We appear before the committee to-day in behalf of the wholesale grass-seed dealers, not as opposing legislation, but asking, as we have done heretofore, for the enactment of a bill that will regulate and correct, as far as is possible, the evils that exist in our particular branch of the seed business.

We have before us for consideration two bills, one of which we have already gone on record, so also the other seed organizations, as having indorsed the principle thereof, and we believe that if this bill (H. R. 20373), with the proper additions, is reported favorably by the committee and becomes a law it will prove the first step to control the evil which has been the primary cause of the majority of the complaints that have been put on record so far, and therefore we trust that your committee will to-day give this bill special consideration, together with the proposed additions thereto, and report favorably thereon.

We all know that in times of short crops, which we are sorry to say have existed several times within the last 15 years, there is a great temptation to go over to Europe and bring in low grades of seed in order to meet the popular demand for cheaper articles in order that the farmer may reduce his running expenses. That such a demand exists no one who is at all familiar with the situation of the trade will attempt

to deny, and our friends on the other side of the water are never backward in availing themselves of any and all opportunities of this kind. The results, of course, have been anything but beneficial to the farming community at large. Vast quantities of seed have been scattered broadcast over the country. Some sections where it has been impossible at times to sell anything but a cheap grade of seed have become so inoculated that it is a question whether now it would be possible for them to ever get the farms in a worse condition. We can not, of course, attempt to do anything in the way of legislation that will control the past or have anything to do with it, but we can profit by the past experience and stop this kind of business as far as the future is concerned.

We have every reason to believe that this bill will answer the purpose and prove the first step in the right direction. We can not conceive to-day how it would be possible to enact a law that could be properly enforced which attempts to cover the entire ground of trafficking in seeds. We do not believe it is possible to carry out the provisions of the bill that attempts to cover the entire field. Science has not progressed sufficiently as yet to attempt anything of this kind. If there is a demand for anything of this kind it will, in our judgment, have to be taken up by special and separate bills.

We now ask and demand protection along the lines of this bill, 20373. We can not rest under the charge made that the seedsmen of the United States are in the habit of disseminating adulterated and misbranded seeds. In no business in the world does there exist a higher standard of morals and business integrity than there exists among the seedsmen, and no reputable seedsmen to-day will attempt to offer an excuse for any one who knowingly will handle or will disseminate adulterated or misbranded seeds. Rather than offer an excuse for such a party, we are here to-day ready to ask protection from such, as being even more vitally interested than the farmers whom we are attempting to protect under the provisions of the law. Our reputation and business integrity is assailed and we rise as a body in protest, that the action of any such individual be taken or considered, even for an instant, as the action of the seed trade in general.

We ask first the enactment of this bill, regulating the importation into this country of the foreign seeds, believing that it is the primary cause for trouble and the first step of protection from the evil, and one which the officials of our Government can readily see is properly carried out in every provision. The Department of Agriculture is thoroughly equipped to do this under its present organization.

THE ILLINOIS SEED CO.,
Chicago, February 3, 1910.

HON. JAMES R. MANN, *Washington, D. C.*

DEAR SIR: I am in receipt of your favor of January 24 and I thank you for kind attention.

Soon after the receipt of your letter of January 19, I sent out a number of letters to seedsmen asking for suggestions and criticisms upon the new draft of your pure-seed bill. Replies thus far received make it seem necessary to have a meeting of our committee on seed legislation, and other interested parties, before we can formulate anything which will be representative of the opinion of the seed trade.

Accordingly I have called a meeting for February 9 in Chicago for consideration of this subject, and soon after the date of this meeting I hope to communicate with you, giving you the results of our discussion. I trust this will not be too late to serve your purpose and that no definite action will be taken until after this date. Meantime I, personally, want to express my appreciation of the evident intention shown in this new draft of your law to eliminate many of the features of your former bill, which would have been burdensome to seed merchants. Would be glad to know whether you still consider it necessary to have your bill apply to seed exported or intended for export. My own judgment is that the reference to export should be cut out of the second and third paragraphs of section 4, if not from the whole bill. Of course, I would not undertake to defend the action of a dealer who would, knowingly, ship adulterated seed for export, but since we have native seed containing dodder, which is commercially valuable in the markets of the world, I see no reason why we should prohibit its export and thus, perhaps, cause it to be resown within the States which produced it.

As you doubtless know, many States are considering seed laws, and the whole subject of State seed legislation is being carefully considered. A joint committee meeting was held in Boston the latter part of December, where seed representatives of the Society of Official Seed Analysts and of the seed trade associations of the country were in conference together with regard to a proposed uniform State law. Progress

was made, and it is probable that laws will be passed in various States during this year. Under the existing circumstances might it not be well to postpone Federal legislation with regard to interstate commerce in seeds until some of these State laws have been tried out more fully?

Meantime the most essential requirement of the situation seems to be to prevent the importation of adulterated seeds and seeds unfit for planting. May I call to your attention the inclosed suggestion for a bill, which though perhaps not in strictly legal phraseology, yet I think covers the essential points which will to a large extent protect the soil of our country against the refuse of foreign seed markets which has been so often marketed here?

I am writing you this without responsibility to my associates in the seed trade, hoping to obtain from you an expression of opinion in advance of our meeting as to whether some such measure would not be acceptable to you for the present in lieu of a more comprehensive measure covering the entire field of interstate trade in seeds. May I have some expression of opinion from you in regard to this at your earliest convenience?

Thanking you in advance for your courtesy in this matter, I am,

Yours, sincerely.

GEO. S. GREEN.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., February 4, 1910.

HON. JAMES R. MANN,
House of Representatives.

SIR: With reference to the proposed pure-seed act introduced by you in the present session of Congress, copies of which were transmitted on January 19, 1910, to the Chief of the Bureau of Plant Industry for examination by specialists of that bureau, I have to advise you that the department is in favor of any legislation which will insure that the farmers, market gardeners, and other growers of this country shall obtain seed of the highest standard of purity and viability obtainable. I am of the opinion that legislation on this subject is much needed and that the bill under consideration will remedy many of the evils which are known to exist in the seed trade, resulting from the willful and fraudulent adulteration and misbranding of seeds by dishonest and unscrupulous seedsmen. However, if the bill were enacted into law in its present shape it is believed that certain difficulties in its practical application would be encountered, to obviate which the following changes are suggested:

Section 1. That to this section there be added a clause substantially as follows: "*Provided*, That seeds or bulbs to be used solely for propagation or testing and not for sale or distribution are expressly excepted from the operation of this act." This exception is deemed necessary in order that rare, new, and valuable seeds and bulbs from foreign countries or different sections of this country may be obtained by the Department of Agriculture, the State experiment stations, seedsmen, and others for testing and propagation, even though such seed or bulbs might be adulterated or misbranded within the meaning of the act. Seeds of some of the most valuable vegetable and forage crop plants now in cultivation in this country were obtained by agricultural explorers, agents, and experts of the Department of Agriculture abroad from natives and other sources in the past, and it is hoped will be obtained in the future under circumstances which make it impracticable to have the seed cleaned before its receipt in this country. It is believed that it is not the object of the bill to prohibit the importation of such seed for experimental purposes, and that this class of seeds should, therefore, be clearly excepted from the operation of the act.

Section 4, clause 1. It is recommended that the word "extra" be stricken out so that the clause will apply to all seeds of the kinds named. As the clause now stands it is restricted in its application to such seeds or bulbs as are designated "extra," so that seedsmen could evade the law by simply omitting the word "extra" and using some other descriptive word intended to mislead the purchaser, as "fancy" or "choice," etc.

Section 5, clause 1. I would recommend that this clause be changed to read, "when one kind or named variety of seeds or bulbs is offered for sale under the name of another kind or named variety of seed or bulb which are distinguishable by inspection, examination, or test." Kinds and varieties of forage crop seeds are in most cases distinguishable by inspection, but the same is not true of all vegetable seeds or bulbs. As the clause now stands, it is believed that it would be impracticable to apply it without great and unnecessary hardship, inasmuch as there are thousands of growers of vege-

table seed who are unable to distinguish named varieties, whose trueness to varietal type can be determined only by trained experts. It would be manifestly unjust to apply the penalties of the act to such growers and to seedsmen by whom their products are handled in good faith. In other words, it is not believed that seed growers and seedsmen generally can be reasonably expected or required to distinguish between named varieties of vegetable seeds which can be distinguished only by a few trained experts. Furthermore, it is believed to be impracticable to apply the clause in question, as it now stands, in the case of seeds and bulbs which are not themselves distinguishable because the fact that seeds of one variety had been sold for seeds of another distinguishable variety could not be detected or discovered until some months after the seed had been planted and reached a certain stage of growth or maturity. By changing the clause to read, "kinds or named varieties which are distinguishable by inspection, examination, or test," every seedsmen will be required to know the peculiar characteristics of different varieties of seeds and bulbs by which they may be distinguished, which requirement is believed to be reasonable and the only one that can be enforced in practice.

Section 5, clause 4. I would recommend that the words "or, if the year in which the seed was packeted is not stated or is incorrectly stated," be inserted between the word "particular" and the words "or, if," etc. It is very desirable that the year in which the seed is grown be stated on the packets, but it is believed to be impracticable, especially where two or more lots of seed of the same variety, but grown in different years, are mixed, which is permissible under section 4, clause 4, of the act; or where seed is obtained from abroad and the year in which it was grown is not known and can not be ascertained. It is practicable, however, to show on every package the year in which the seed was packeted, and a requirement that this information be correctly shown on the packet, together with a requirement that the contents of the package as originally put up shall not be removed, in whole or in part, would enable purchasers to form an estimate of the approximate age of the seed.

Section 9, page 8, line 5. Note that the concluding portion of this section appears to have been omitted by the printer.

Section 12. It is recommended that this section be changed to read as follows: "That this act shall take effect and be in force upon the expiration of six months after the Secretary of Agriculture shall have promulgated rules, regulations, and standards, as provided in section two hereof;" or if this be considered too indefinite, that the words "six months" be changed to "one year." It seems doubtful whether six months would allow sufficient time in which to prepare rules and regulations and to establish standards for the different varieties of seeds and bulbs, as provided in section 2, or for the seed trade to adjust its business to meet the requirements of such rules and standards. Proper and effective rules and regulations for the enforcement of the act can not be formulated until definite standards shall have been established, which will require considerable investigation, particularly with reference to determining the characteristics by which varieties of seeds and bulbs may be distinguished, and the degree of purity which it is practicable to secure in the case of forage-crop and other seeds by mechanical or other means. Investigations on these subjects are now under way, and it is evident to the department that these investigations can not be completed within six months. To attempt to enforce the act within six months of its passage would probably work unnecessary hardship and result in financial loss to both seedsmen and growers. For instance, the rules and standards fixed by the department under the act might make it necessary for the seed trade to discard thousands of catalogues and millions of packets or labels, and render useless or unsalable many tons of seed in stock at the time the act becomes effective, and several months at least would be required to replace them with correct labels, etc. The delay involved in meeting the requirements of the act might, therefore, result in seriously hampering the sale or transportation of seeds near planting time and make it difficult or impossible for growers throughout the country to obtain their seed. It is recommended, therefore, that section 12 be changed as indicated.

In view of the importance of the proposed legislation, the specialists of the department have expressed a desire to confer with you with reference to certain features of the bill which they feel should have the most careful consideration, and they would like to have an opportunity to discuss these features with you before the bill is enacted into law.

The absence from the city during the past few weeks of some of the specialists of the department who are deeply interested in the proposed legislation will explain the apparent delay in replying to your letter.

Respectfully,

JAMES WILSON, *Secretary.*

W. ATLEE BURPEE & Co.,
Philadelphia, February 7, 1910.

HON. JAMES R. MANN,
House of Representatives, Washington, D. C.

DEAR SIR: Again referring to your courteous favor of January 24 you will permit me to express my regret that when calling upon you in Washington and finding that you were busy presiding at a committee meeting I did not have an opportunity to return later in the day.

After careful thought and study on the tentative bill, copy of which you so kindly sent, I am forced to the conclusion that there is no way possible by which legislation that would apply to agricultural seeds, including grasses and clover, could possibly be made to cover the subject of vegetable and flower seeds, or bulbs. In fact, I think any such attempt would result only disastrously as far as quality of vegetable and flower seeds were concerned. For instance, refer to page 5, line 4, of your tentative bill and you will readily see that any cheap seeds so long as they were clean, of the proper variety and strong vitality, could be labeled "United States standard."

As a matter of fact you must know that the leading seed houses of America are trying constantly to improve the strains of vegetable and flower seeds and are doing this at great expense. It would hardly be fair to them to have labeled cheap seeds of inferior stocks (even though they might be of true variety) "United States standard."

Furthermore, if you will kindly refer to paragraph 3 on page 3, lines 17, 18 and 19, and then consider such a season as we have had this year when the best radish seed which is grown in France, we are pleased if it shows a germination of 70 to 75 per cent, while the cheaper radish seed grown in California (and which most market gardeners would not want at any price) shows much stronger germination. As an illustration of how impossible it is to prescribe any fixed standard of germination for a given class of seed let me tell you that in the fall of 1896, when we had the Government contract for seed distribution on the Atlantic and Pacific Coast States, the germination of cauliflower was specified as 90 per cent and the variety selected Burpee's Best Early. We immediately advised the Hon. J. Sterling Morton, then Secretary of Agriculture, that we could easily supply cauliflower seed of the required vitality, but under no consideration would we send this out under the label of Burpee's Best Early, as this variety had been grown only in Denmark and the vitality seldom exceeded 78 to 82 per cent. It was a question, therefore, whether we should supply some cheaper variety grown in France, Italy, or California (of course, under its proper name), or whether we should supply the variety asked for and which cost us several times as much to produce.

Should you desire any further facts as to what seems to me an absolute impossibility of framing a bill that will really protect the planter of vegetable and flower seeds who is not careful of whom he buys his supplies I should be pleased to answer any questions you may send, or could call on you in Washington almost any day you might name after this week.

Very truly, yours,

W. ATLEE BURPEE.

MAINE AGRICULTURAL EXPERIMENT STATION,
Orono, Me., February 9, 1910.

HON. JAMES R. MANN,
House of Representatives, Washington, D. C.

DEAR SIR: The official seed analysts have been much impressed with the need in the various States of a uniform law controlling the sale of seeds. They are, of course, also greatly interested in the bill which you introduced into the last session of Congress.

At the time of the Boston meeting of the Association for the Advancement of Science a long session was held with a special committee appointed by the American Seed Trade Association on legislation, as well as their executive committee. As a result of this conference quite a number of points were agreed upon relative to a law which should consider purity alone. Because of the very conflicting results in germination that were obtained by different methods in different laboratories it seemed unwise, until a further study of methods has been made, to introduce anything relative to the vitality of seeds into a law.

In connection with this meeting we became firmly convinced that the seed trade would favor a law regulating the importation of seeds. I am not at all certain that they are yet ready for a law to control interstate trade in seeds. It occurred to some of us who are interested in this matter from the official standpoint that in national legislation it might not be possible to do something, as was done in the case of food and drugs. You will recall that we had a law regulating the importation of foods and

drugs long before it was possible to get enacted the law regulating the interstate trade in these commodities.

We are firmly convinced that a Federal law prohibiting the importation of low-grade seeds would be of great service to the agriculture of the United States. We also think that a good part of the seed trade is in favor of seed legislation, and if it was properly proposed there would be little difficulty in carrying such a bill through.

It occurred to us that such legislation could at this time be confined to a few points such as the following:

The seed to be included to be all clover, grass, and forage-plant seed intended for seeding purposes. It might be desirable to prohibit the importation of seed which contained dodder and which contained weed seeds or dead seeds which rendered it unfit for feeding purposes.

After talking the matter over with some of the Washington people I found that the difficulty of administering such legislation would be very slight, as on the passage of such a law dealers would stop the importing of the seeds prohibited by the law and the desired effect might be obtained with very little trouble or expense from the standpoint of inspection.

I have not conferred with the honorable Secretary of Agriculture relative to such a measure, but I feel pretty confident from some of his subordinates that this might be handled without any additional appropriation. The seed laboratory is well equipped for doing all of the work that would need to be done from the analytical standpoint, and I presume that through cooperation with the Treasury Department it could be handled without special inspectors to be stationed at the various ports.

I trust you will pardon my intruding myself upon you in this connection, but knowing your interest in seed legislation and hearing the rumor that the bill along similar lines as the one proposed to the last Congress was to be presented again in the present Congress, I am taking the liberty of suggesting the introduction of a bill far less wide in its scope, which might be used as an entering wedge to successful further congressional action.

Yours, truly,

CHAS. D. WOODS, *Director.*

THE ILLINOIS SEED CO.,
Chicago, February 12, 1910.

HON. JAMES R. MANN, *Washington, D. C.*

DEAR MR. MANN: I am in receipt of your letter of February 5, for which accept thanks. I shall be glad to have printed copies of the suggested outline for bill regarding importation of seeds when it is printed.

The meeting of committees representing the leading associations of seedsmen in the United States was held in Chicago February 9, as planned. After a prolonged discussion of the subject we found the problem of evolving a satisfactory law, dealing with interstate commerce in all varieties of seeds, as difficult and perplexing as ever.

It was the opinion of the majority of those in attendance at the meeting that no law should be enacted in which garden seeds and bulbs were included under the same provisions as might properly apply to grass and clover seeds, because the conditions of production and use of these two classes of seeds are so radically different.

It was also thought that it was unwise to provide for arbitrary standards to be fixed by the Secretary of Agriculture, for the following reasons:

First. It is believed to be impossible to make such standards properly conform to the varying requirements necessitated by varying climatic and crop conditions attending the production of seed.

Second. The best methods of testing seeds for purity and germination which are now in use are not sufficiently uniform and accurate, and the vitality of seeds not sufficiently stable to warrant imposing heavy penalties for the sale of seeds falling below a certain arbitrary standard.

Third. While purity and germination constitute the only available basis for arbitrary standards, they are by no means a complete or accurate measure of the actual value of seeds to the user thereof. Color and size of seed, locality of production, trueness to type, excellence of strain, and many other qualities enter into the value of seeds, and in any given instance any one of these might be the determining factor in measuring their true value to the user. These considerations make it manifestly unjust to allow the terms "United States standard" to be applied indiscriminately to all seeds of certain varieties which might reach certain standards of purity and germination, thus tending to create the false or misleading impression that they are all of equal value.

Fourth. It is believed to be questionable public policy to place in the hands of any public officer the power to hamper any trade or business to the extent that such pro-

posed standards would do, especially in a case where the knowledge of conditions of production and the apparatus and methods for making tests are only now in the process of evolution, and not by any means perfect.

We believe that no legislation should restrict or prohibit the exportation of any class of seeds having commercial value in any foreign country; for example, there is now produced in this country clover and alfalfa seed in considerable quantities containing dodder. There is a foreign market for such seeds. There are certain climates and countries in which dodder does not thrive, and there is no sound reason, either commercial or moral, to absolutely prohibit the exportation of such seeds. On the contrary, such prohibition would tend to cause such seed to be resown within our own country.

We believe that the provision in section 9, page 7, lines 20, 21, and 22, "or is or are of a quality forbidden entry into or forbidden to be sold or restricted in sale in the country from which exported," is unfair and would prove exceedingly burdensome, because it throws upon the importer the necessity of keeping thoroughly informed at all times about legislation in any foreign country from which he purchases seeds. Even then he could not be thoroughly protected, as some new law might be passed in the exporting country between the time he contracted for the goods and the time of shipments reaching the United States customhouse. Furthermore, some restrictions which might be wise or necessary in the country of production might be entirely unnecessary and unwise here.

There are other more or less important points in your proposed law with regard to which the wording would seem to need change which we shall be glad to take up with you in conference should necessity arise and opportunity be afforded. We appreciate the evident fair-minded spirit which has led you to eliminate so many of the burdensome features of your former bill, and we believe you will upon reflection concede the force of our arguments stated above, and will not hastily introduce or urge a law unless you believe it to be in all respects suitable for the requirements of the situation. In the meantime our committees resolved to indorse my suggestion for a bill to prevent the importation of adulterated seeds or seeds unfit for planting, and to pledge you our support to help to secure the prompt passage of a bill covering this ground in case you should consent to introduce and urge for passage such a bill.

Referring again to your letter of February 5 with regard to State seed legislation will say that the general sentiment of the trade has always been favorable to a single workable Federal law governing the sale of seeds in preference to diverse State laws. However, the legislatures of many States have already passed seed laws, some of them being very impracticable and unwise, and other such laws are under consideration. The Boston conference was held with the hope that more uniformity and reasonableness might be secured with regard to State legislation, and it is hoped that the situation will clear up somewhat during the next year. In the meantime it seems to us unfortunate to further complicate the situation by a Federal law, which may not in any way work in harmony with the State laws now in existence, or soon to be passed.

I understand you are one of the busiest men in Congress, and this is a busy time of year with all seedsmen. It seems hardly probable that it will be possible to work out during the present session of Congress a bill governing interstate commerce in seeds which will be really helpful to agriculture and at the same time not unduly burdensome to dealers. Such being the case, would it not be wise to do promptly the thing which we are all agreed should be done, viz, stop the importation of low grade and worthless grass and clover seeds, leaving for future attention the far more difficult task of framing a more comprehensive bill regulating interstate trade in seeds?

Hoping to have your views with regard to this matter, at your earliest convenience, and hoping that no further definite action will be taken without ample opportunity for further discussion of the subject, I am,

Yours, sincerely,

GEO. S. GREEN,

Chairman Committee on Legislation of the American Seed Trade Association.

W. ATLEE BURPEE & Co.,
Philadelphia, February 16, 1910.

HON. JAMES R. MANN,

*Chairman Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

DEAR SIR: Replying to your favor of the 14th instant in which you state, "So far I have received no assistance from the dealers in vegetable and flower seeds in reference to formulating any proposed legislation," permit me to say that, after 34 years' active experience in the seed business, personally I can not see how any special legislation could be enacted which would benefit the planter, purchaser, or dealer in vegetable or flower seeds.

It is, of course, comparatively easy to legislate relative to grass, clover and agricultural seeds when admixtures can be detected. With vegetable and flower seeds the mechanical purity is, of course, a very easy matter to insure, but the two points that are necessary are vitality and purity of strain. As I said in my last, sometimes the finest strains in unfavorable seasons, or because necessarily produced under certain climatic conditions, will have less strength of vitality than inferior stocks grown in other sections.

While we have never adopted a disclaimer used by seedsmen generally, yet we would not take from this a "holier than thou" position. I am quite sure that any first-class, honest seedsmen would return the purchase price paid for seeds if there was any error or mistake on his part. The vitality of seeds can, of course, be tested before their selling or planting, and such tests (to the number of more than 14,000) are made by us every year. In a single fall have entirely destroyed seeds which have cost us more than \$10,000 because they were defective in germination.

Of much greater import is the quality of the stock, and this can only be assured by careful inspection of growing crops, selection of stocks, and then, as a safeguard, the testing of samples.

Under separate cover we are mailing you under letter postage, with copy of our catalogue, a copy of our thirtieth anniversary prize supplement for 1906, and would kindly ask you to read page 18, where you will see that more than 7,000 field trials are made annually in the open ground.

Now, we are doing all that we can to maintain and advance the quality of seeds sold, and we are quite sure that the majority of other first-class seed houses are doing the same.

It is, of course, impossible to attain an ideal in every vegetable. We would ask you to refer to the upper right-hand corner of page 75 of our retail catalogue, where accompanying illustration of Prize-Taker onion. We admit that the photograph reproduced "shows the ideal form, but most of the onions will not come so perfectly globular."

Now, the point that I made in my last letter to you seems to me to be unanswerable—that if from mechanical purity and germination alone any seedsmen or dealer is allowed to use the words "United States standard," the planter would suppose that necessarily he was obtaining first-class seed of choice, pedigreed strains, whereas he might be getting the cheapest rubbish.

All honest seedsmen will, of course, agree with you in your desire that there should be restraint by law, were it possible to have such restraint, "from willful adulteration or misbranding, or the sale of seed which they know, or by reasonable diligence should know, will not grow." But how is such "willful adulteration" or "willful misbranding" ever to be proved?

Very respectfully, yours,

W. ATLEE BURPEE.

P. S.—Since dictating the above, I think it well to call your attention to the wording at top of our order sheet in retail catalogue, mailed under separate cover, and also attached to this copy of the "checker's slip," which is put in every order and which emphasizes the same statement—that while we offer money back, this does not and can not be expected to insure any consequential damage, as "no honest seedsmen could possibly guarantee a first-class crop in every case."

W. A. B.

"CHECKER'S SLIP" FOR 1910.

To the recipient of this package:

Your order has been marked "O. K." and passed finally by Checker A.

In the great rush of business, however (notwithstanding our system), mistakes do sometimes occur. Now please advise us immediately when you have compared these seeds with a copy of your order if they are not exactly right, returning this "checker's slip," so that we may know who was finally responsible.

We shall correct any mistake that, despite our care, may have occurred. We do not want you to "keep quiet" if anything is not received satisfactorily and just as ordered. But please be sure first to compare the goods received with a copy of your order. We frequently find upon looking up the original order that the seeds complained of as "missing" were not named upon the order sheet.

Thanking you for your kind order and trusting to be favored with your further orders, we remain,

Yours, truly,

W. ATLEE BURPEE.

(Please turn over.)

"THE PLAIN TRUTH" IS OUR AIM.

We will not misrepresent for the purpose of effecting sales, nor for any other purpose. We do not want any one to be misled even by our well-known guaranty. It should be understood that this guaranty applies only to the amount actually paid for the seeds. Therefore we have printed the following upon the top of each order sheet:

In sending this order I rely upon your reputation as honest and experienced growers that you will use every care to send me only seeds which you really believe are the best that have been produced for planting in 1910. Should I discover that any mistake has been made, I shall advise you promptly, so that you can redeem the promise made on second page cover of Burpee's Farm Annual for 1910—either to replace the seeds or refund the price paid, as I may direct. I recognize the fact that a mistake may occasionally occur and also that success depends largely upon conditions of soil and climate, which are beyond human control; consequently no honest seedsman could assume responsibility for an amount beyond the actual cost of seeds.

We do not guarantee that everyone who plants Burpee's seeds will harvest a good crop. Ultimate success depends upon conditions of soil and climate that are beyond human control.

We are free to admit, also, that sometimes we make a mistake.

"To err is human." When we do make a mistake, however, we agree (unlike most seedsmen) to refund the full price paid for the seeds—so that we bear our share of the loss.

Our employees, knowing this responsibility of the firm, realize the necessity of constant carefulness.

No seedsman (unless he be a quack, of but little financial worth) could possibly guarantee a first-class crop in every case. Some failures may occur, even with the best seeds that can be grown.

We should be pleased to have another order from you this season, no matter how small. Will you not look over our annual catalogue for 1910 again and see if there are not a few other seeds you could use to advantage? If you have mislaid your copy or want several for friends, we shall be pleased to mail same immediately upon receipt of a postal card application.

Please remember, should you forget our full firm name, that it is sufficient to address simply—either letter, telegram, or cable message—Burpee, Philadelphia.

MAINE AGRICULTURAL EXPERIMENT STATION,
Orono, Me., February 16, 1910.

Hon. J. R. MANN,

House of Representatives, Washington, D. C.

DEAR SIR: Since writing you I have received a copy of House bill 20373, which you introduced, to prohibit the importation into the United States of adulterated seed and seed unfit for planting. Will you kindly allow me to make one or two suggestions relative to the measure?

Section 2 lays a large amount of stress upon adulterated seeds, which is very proper, only that the amount of actually adulterated seeds shipped into the United States is very small.

Section 3, it seems to me, should be somewhat widened in its scope. It is as important to have alfalfa and flaxseed free from dodder as clover seed. It is also important, as I suggested in my other letter, to prohibit the importation of dead seeds. There have been many cases where practically pure seed has been imported, which was all dead. This was, of course, absolutely worthless and is used for mixing purposes. I would suggest inserting after the word "clover," in line 20, the words "alfalfa or flax," and after the word "clover," in line 21, "alfalfa or flax," and after the word "contains," in line 23, the words "less than 75 per cent of live seeds or," so that the section as amended shall read:

"SEC. 3. Seed shall be considered unfit for seeding purposes within the meaning of this act, first, when any kind or variety of clover, alfalfa, or flax seed contains more than one seed of dodder to three thousand seeds of clover, alfalfa, or flax; second, when any kind or variety of the seeds named in section one of this act contains less than seventy-five per centum of live seed or more than three per centum by weight of seeds of noxious weeds."

Yours, truly,

CHAS. D. WOODS, *Director*.

THE ILLINOIS SEED CO.,
Chicago, November 30, 1910.

HON. JAMES R. MANN, *Washington, D. C.*

DEAR MR. MANN: The writer called at your office recently, hoping to see you before you returned to Washington, but found that you had already left Chicago.

I am no longer chairman of the American Seed Trade Association committee on seed legislation, but am still in the seed business and naturally interested in the question of seed legislation. Do you know whether anything is likely to be done with regard to national seed legislation in the near future? Personally I should be very glad indeed to see a bill passed promptly which would prevent importation of low-grade or adulterated seed—a bill something along the line of the one which you introduced by request last March. Prof. C. D. Woods, of Orono, Me., is chairman of the seed legislation committee of the Official Seed Analysts Association. His committee favors the prompt passage of such a bill, and if you could be interested to push this bill I believe it would be a good thing for American agriculture. Prices of alfalfa seed are very high this year and red clover is also comparatively high in this country, and there is more probability of the importation of low-grade seeds this year than there was last year.

Seedsmen who want to handle good grades of seed would be glad to have the importation of foreign screenings prohibited by law, and I feel sure that the Department of Agriculture and the various State officials would welcome such legislation. May I ask whether there is any probability of your trying to further this bill regarding importations? If so, I should be glad to submit some suggestions for slight changes in it, most of which are favorably regarded by representatives of the Bureau of Plant Industry at Washington.

Have you given any further thought to the question of regulation of interstate commerce in seeds? I trust we shall have an opportunity to discuss this matter with you before any definite action is taken.

Yours, sincerely,

GEO. S. GREEN.

S. D. WOODRUFF & SONS,
Orange, Conn., December 20, 1910.

HON. JAMES R. MANN, M. C.,
Washington, D. C.

DEAR SIR: I am in receipt of advice that you have already filed the seed bill, and that the same has been referred to the Committee on Interstate Commerce. Am I correct in this, and if so, will you not kindly if you can conveniently, send me a copy of this bill? Of course, you are quite familiar with the various phases of the matter in connection with seed legislation of any kind, and I probably do not need to tell you that the National Association of Seed Analysts, composed for the most part of directors and representatives of the various State experiment stations, have had this matter under advisement for many months, and their plan ultimately is, I believe, to frame up a seed bill that may meet the requirements of all concerned. The seed proposition as a whole is such that as you have doubtless fully observed, has so many difficulties in the way of making just legislation, that unless most carefully considered and drawn up, it is pretty sure to defeat its own purpose.

I take this occasion also to request that you keep me informed as to any hearings that may be had on this bill, so that the American Seed Trade Association can be represented at such hearings.

Thanking you in advance for your attention to this matter, and awaiting your advices, I am,

Very truly, yours,

WATSON S. WOODRUFF,
Chairman Legislative Committee,
American Seed Trade Association.

BOSTON, December 20, 1910.

HON. JAMES R. MANN,
Chairman Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.

SIR: I am just advised that a seed bill, H. R. 29163, has been introduced and referred to your committee. Remembering your former courtesies in allowing seed merchants a hearing before your committee to express their objections and recom-

mendations on a former seed bill, H. R. 13835, I earnestly hope you will give them a hearing on this bill should they, on examination of the bill, note serious objections thereto. I believe the history of the efforts of seedsmen in the last two years to co-operate in securing legislation which is fair to all parties, warrants the consideration of their views, especially since they have, more than anybody else, a practical knowledge of commerce in seeds. I have notified my clients and I shall be greatly obliged to you if you will advise me of your and your committee's willingness to hear them should they desire a hearing.

Respectfully, yours,

CURTIS NYE SMITH.

W. ATLEE BURPEE & Co.,
Philadelphia, January 3, 1911.

HON. IRVING P. WANGER,
House of Representatives, Washington, D. C.

MY DEAR MR. WANGER: As I advised you over the phone, I heartily appreciated your courteous favor of December 14, covering copy of the bills H. R. 20373 and H. R. 29163, and had hoped to respond before this to your inquiry to let you know whether I would "regard the provisions in either one objectionable, and if so in what respect."

Absence from town and pressure of other business has prevented me giving the proper thought to these two bills until to-day. I am quite sure, however, that my criticisms will reach you in ample time, as the hearing is arranged for January 17.

Bill H. R. 20373 is practically entirely covered by the new bill H. R. 29163, which Mr. Mann introduced on December 13. My comments, therefore, will be devoted to the latter.

Section 1 is entirely reasonable if such a bill is found to be necessary, in that on lines 8 and 13 the word "knowingly" before "ship or deliver" would protect any innocent dealer from being adjudged "guilty of misdemeanor."

Section 2 is giving perhaps too much power to the Secretary of Agriculture, which office might not always be filled by a man of integrity and the requisite technical knowledge. In fact, it is very difficult, even for a man of exceptional ability and unquestioned integrity, to "publish standards for different kinds and varieties of seeds and bulbs." Let me illustrate from personal experience. In the last year of the Cleveland administration we had a contract, amounting to considerably over \$50,000, for supplying the Government seeds for distribution on the Atlantic and Pacific coasts. In specifying the varieties to be distributed by us the Department of Agriculture named Burpee's Best Early Cauliflower, and the required germination was 90 per cent or more. I immediately wrote my friend, Hon. J. Sterling Morton, then Secretary of Agriculture, that this was a physical impossibility: that seed of Burpee's Best Early Cauliflower was grown on the island of Zealand, Denmark, and seldom if ever showed a germination of more than 78 to 82 per cent, and that we could obtain cauliflower seed at less than one-half the price grown either in France or Italy which would come up to the department's demand as to germination, but would not anywhere approach our standard of excellence that it could be called Burpee's Best Early. Mr. Morton, of course, saw the reasonableness of this immediately.

Section 3, line 22: Flower seed should certainly be omitted (and possibly vegetable) for the reason which will appear later.

Section 4: The suggested percentages of foreign seed may perhaps be too small, but information on this point can be obtained much better from grass seedmen. Our business, as you know, is chiefly vegetable and flower seeds. In grass, clover, and agricultural seeds we handle only the highest grades obtainable, but must recognize the fact that many planters and farmers are those to blame for the marketing of so much low-grade grass and clover seed, in that they will not pay the price for the best.

Section 4: Lines 11, 12, and 13 of this section would also apply to flower seed, and in the case of nasturtiums, petunias, phlox, sweet peas, etc., if attempted to be enforced would cause an immense amount of worry and trouble. Nasturtiums are so liable to mixture that a named variety, unless it be a very old-established sort, is certainly a very fine stock that comes 95 per cent true. The new Spencer type of sweet peas sport so frequently that a novelty that comes 90 per cent true is considered really fine.

These three lines might also prevent the introduction of good, sterling novelties in vegetables. You can readily understand that every vegetable or flower grown from seed differs somewhat from each of its neighbors, and while reasonably true to type, were it required that no novelties should be introduced until they obtained 95 per cent true, it would interfere much with the progress of horticulture and the interesting work of hybridizers throughout the world.

Section 4, second: Seems reasonable.

Section 4, third: The reasonableness of this will depend, of course, upon the proportions allowed. It must be remembered, however, as in the case of cauliflower, that

percentages of germination vary not only with the section in which the seed is grown but also with the season in which it has been produced. For instance, cabbage seed on Long Island this past season was a magnificent crop. The prospects for 1911 are for a very poor crop, and in all probability the seed of 1910 carried over will show a considerably higher germination than the seed that may be produced in 1911.

Section 4, fourth: Quite reasonable and fair.

Section 5, line 19, would require the word "knowingly" to be inserted after "shall be."

Section 5, second: Were I disposed to look for selfish advantage only I should not offer the criticism I purpose regarding this section. For many years we have stated in each catalogue (as you will see in copy of our catalogue for 1911, p. 2) that all packages containing 1 ounce or more are dated and sealed with our green seal, of which a facsimile is there given. Our reason for not dating packets is that the electrotypes occupy the full front of the bags. Now, it would cost us only a few thousand dollars to change all our electrotypes of packets and date these as well as we do ounces; but this would give us a very unfair advantage over our competitors, particularly those in the commission business, who, instead of printing their packets separately, as do we, have them lithographed in great sheets and carry a year or two years' supply ahead.

Section 5, third: Does this infer that the locality or country in which the seed has been produced must be stated on each package? If so, such a requirement seems most unfair, as in the case of houses of experience knowledge of the locality or most suitable territory for producing to the highest state of perfection a given variety of seed may have meant the work of practically a lifetime, and the Government certainly should not require the relinquishing of such a valuable trade secret to every competitor. Furthermore, to enforce such a requirement would work untold hardship upon an honest firm. Let me illustrate simply one item. Last season we offered at retail *Dimorphotheca aurantiaca* by a colored plate in our catalogue and, realizing how beautiful would be the plate and how strong our description from our experience with this annual, we purchased all the seed the writer could obtain when in Europe, in England, France, Germany, and Holland. We sold more than 32,000 packets at retail. So satisfactory is this new annual that our sales this year will probably be greater, and we have ourselves grown large lots of the seed on our own farms in California, Pennsylvania, and New Jersey, besides making contracts in Europe with reliable growers. Now, you can readily understand that in papering this seed it would give us endless trouble to figure just how many packets were to be printed for the seed grown in each country, and the information could do the planter absolutely no good whatever. The same objection would apply to many vegetable seeds, such as melons, tomatoes, sweet corn, peas, and beans, which, in order to insure against failure of crops in certain sections, are produced in different States.

Section 5, fourth, seems all O. K. if the word "knowingly" be inserted on line 7, after "shall be."

Section 6 would at first appear to be reasonable if the act as a whole should be passed, but there is one serious objection which perhaps has not occurred to Mr. Mann. That is, any one who complies technically with the act would be entitled to use the inscription "United States standard," while the seeds, actually pure and honest, might be poor and of an inferior strain. For instance, certain celery and radish seed can be produced in America at much less cost than in France, but as a rule is worth very much less than the difference in cost to the market gardener.

Section 7: This would be rather awkward for the wholesaler should such a guaranty be given by him and get into the hands of unscrupulous retailers.

Now, my dear Mr. Wanger, I think if you will have leisure some evening to consider my criticisms as above, you will agree that most of them are well taken.

I hope to be in Washington at the meetings of the National Board of Trade beginning Monday, January 16, and trust you will save some evening early that week that I may have the pleasure of your company at dinner at the Willard. With kindest regards,

Sincerely, yours,

W. ATLEE BURPEE.

THE NEBRASKA SEED CO.,
Omaha, Nebr., January 17, 1911.

JAMES R. MANN, M. C.,
Washington, D. C.

DEAR SIR: We are greatly obliged for your attention and pleased to state your bill has some very good features. There are also some things that we believe could be improved materially for the good of the whole country.

Yours, truly,

THE NEBRASKA SEED CO.

WASHINGTON, *January 24, 1911.*

HON. JAMES R. MANN,
Chairman Committee Interstate and Foreign Commerce,
House of Representatives.

MY DEAR MR. MANN: I inclose herewith, for your consideration, a letter from Mr. Oscar H. Will, of Bismarck, N. Dak., relative to your pure-seed bill, H. R. 29163. Mr. Will is a seedsman of long experience.

Very truly, yours,

A. J. GRONNA.

OSCAR H. WILL & Co.,
Bismarck, N. Dak., January 18, 1911.

HON. A. J. GRONNA,
United States House of Representatives,
Washington, D. C.

DEAR SIR: When I saw you at the Commercial Club in this city not long ago I mentioned the so-called pure seed bill (H. R. 29163) introduced by Mr. Mann, of Illinois. It is difficult for me to explain satisfactorily to one not very familiar with the seed business the impossibility of complying with the provisions of this bill, should it become a law.

Seeds are grown, not made; therefore it is practically impossible to sell a quality of seeds that it has been impossible to grow, for instance, the past season. One of the absolute impossibilities is the requirement of stating on the packages where and in what year the seed was grown, for the reason that all garden seeds sold in this country are not produced by the firm selling them, but by specialists in all parts of the earth where they grow to the greatest perfection, the supply being contracted for as a rule one, two, and three years in advance.

Mistakes sometimes occur between the planting of the seed stock and the sale of the product, and it is not right to subject an innocent dealer to prison penalty for what he has honestly tried to avoid. This bill places each seedsman and the dealer in seeds, entirely at the mercy of the Secretary of Agriculture, who has the power to make rules and regulations to suit himself, and in case the Secretary has a personal grievance against a seed dealer he can make it very unpleasant.

One provision of the bill puts the dealers in seeds in unjust competition with the Government, for although it prohibits the sale by a private person or corporation it allows the court to order the sale of seeds confiscated to the Government. The bill permits the Secretary of Agriculture to fix a standard, and that is absolutely impossible for one man or a set of men to do, for the reason that 100 different grades of seeds may be grown in the same year and different localities. Supposing that the Secretary of Agriculture sets a standard on some seed which has been brought to his notice for that purpose; the seeds may have been grown under favorable conditions. At the same time, in the Northwest, I might produce seeds of the same variety which could not under the existing conditions that year come up to the standard set by the Secretary; therefore, if I sold such seeds I would be "up against" heavy fines and prison penalties.

Anyone after reading the bill would have no alternative but to rate the seedmen as the worst kind of criminals, whose principle occupation was to mix up a lot of weeds and dead seeds which would entirely destroy their reputation. There are no more conscientious and painstaking men on earth than the seedmen, and no class of men work harder, from necessity, to have their goods a little better if possible than those of their competitors.

We should have a law to prohibit bad importation, and a law to eradicate the foul weeds which now curse the country. But until such a law is made the seedmen should not be compelled to go out of business or to jail for failing to reach an impossible standard set by some one in authority.

On page 3, lines 17 and 18, in regard to giving amounts and proportions of the kinds or varieties of seeds, I wish to call your attention to the fact that such provision would be physically impossible; for example, I will mention one item of many hundreds. We will say that we had contracted for 100 pounds of tomato seed at \$1 per pound, and prepared all our packets and marked the quantity on that basis, but late in the season the grower has his crop destroyed and could furnish only a small part or none of the crop, and we would be compelled to buy elsewhere at three or four times the contract price. This would render the first packets worthless, and thousands of new bags with a lesser quantity would have to be printed, all of which, if possible, at the time would cause great loss and expense.

The above would not apply to larger lots of the same seeds, except that the new seeds when put up might be full weight or measure and later on after shrinkage had taken

place would be lighter in weight or smaller in measure, but still contain the same number of seeds.

I would call your attention to page 6, lines 1 to 17, inclusive, which is certainly the most ridiculous and impossible part of the bill. It is more difficult for me to write you than it would be to explain this orally. The seedmen's committee are to have a hearing before the Interstate and Foreign Commerce Committee on February 3, and if it is possible for you to hear their able arguments at that time it would please me very much.

Trusting you will use every honorable means to defeat the bill as it now stands, I remain,

Yours, very truly,

OSCAR H. WILL.

W. H. SMALL & Co.,
Evansville, Ind., January 19, 1911.

HON. JOHN W. BOEHNE,
House of Representatives, Washington, D. C.

DEAR SIR: Through the trade journals, our attention is called to the "Mann pure seed bill."

There are many things in this bill that are good and some that seem to us impracticable. Can you tell us as to the status of it? If you are liable to be in Evansville before the bill is put on passage or taken out of committee, we would like very much to have a personal talk with you. We are corresponding with some other members of the seed trade and believe we can offer some suggestions that will not weaken the bill in its intended purpose as a protection to buyers of seed, but will at the same time make it much more practical than as written now.

Yours, very truly,

W. H. SMALL & Co.,
A. F. FILES, *Vice President.*

L. TEWELES & Co.,
Milwaukee, January 24, 1911.

THE HON. JAMES R. MANN,
Washington, D. C.

DEAR SIR: In regard to the pure-seed law, bill R. H. 29163, we need not mention that we are in favor of same as you will have noticed by our previous correspondence with you on the same subject, but we consider the penalty clause unfair and unjust, as it is approved and acknowledged by whoever came in contact with first-class seed houses that they are more honest in their dealings than in many other branches of business and they are men of high standing in the community and no criminals.

We would propose to let the seed law stand as you framed it, but instead of penalties we would propose that the Agricultural Department in Washington appoint some agents to visit the different seed houses from time to time and examine their cleaned seeds ready for shipment and if they find some adulterated seed the owner of it should be published in different papers, which would be a more severe punishment and the result would be disastrous and it would ruin his business for the future.

We expect you will find our proposition just and fair and in line with honest business principles and we hope the same will meet your views and support.

Yours, respectfully,

L. TEWELES & Co.

THE TEXAS SEED & FLORAL Co.,
Dallas, Tex., January 23, 1911.

HON. WILLIAM C. ADAMSON,
House of Representatives, Washington, D. C.

DEAR SIR: We take the liberty of addressing you as a member of the Interstate and Foreign Commerce Commission, with reference to a House bill known as H. R. 29163, seeking to regulate the seed business.

We respectfully request that you send us a copy of this bill.

We most earnestly protest against this iniquitous proposed act, which puts every seedsmen under a prison penalty and is intended to put the seed business at once and forever in the disreputable class, embodying as it does the assumption that this industry is so conducted that an unreasonable number of those engaged in it are dishonest.

We do not feel that Congress has a right to put such a ban on any reputable industry, until it is shown by open and unbiased hearings in various sections and by Census and customhouse records that there does exist in this trade dishonest practices beyond the usual average run of wrongdoings.

The most responsible men in the seed trade claim that the commercial honesty of this business excels that of most others and take this position because misdeeds in seed sales are known in a few weeks and no merchant could succeed for over two seasons who knowingly sold bad seeds.

For the sake of our present reputation and for that of the future, we believe that we have a right to demand that before such a disgraceful law is passed upon the seed trade, there be ample proof of dishonesty furnished.

We certainly do not feel that we should be placed in the class with patent medicines, get-rich-quick concerns, and assure you that if such a bill is spread upon the law books of the country that it will work an untold injury to our business.

We respectfully request that you oppose the passage of this act.

Thanking you in advance for your kind influence, we remain, with much respect,

Yours, very truly,

THE TEXAS SEED & FLORAL CO.,
C. W. ROBINSON, *Secretary and Treasurer.*

THE FRANK S. PLATT CO. (INC.),
New Haven, Conn., January 28, 1911.

Hon. JAMES R. MANN, *Washington, D. C.*

DEAR SIR: The growing and handling of seeds is a necessary and honorable occupation, exempt from fraud and impositions in as full degree and sense as any form of merchandising. Nature does not produce all seeds superlative and absolutely apart from other forms of similar characteristics, and no process for elimination is yet infallibly perfect. The fact the Government of the United States has permitted the importation of worthless seeds for adulteration purposes, and we assume cognizant of their ultimate use, should not be charged against the seed trade in general, but in full measure of condemnation revert to those who are guilty and whom the Government may investigate through the records and entries at the customhouse.

It is unquestionably true that unscrupulous persons or firms have taken advantage of the privilege to import cheap seeds and adulterants and made use of them to their own profit, but the liability for such imposition and fraud should be placed where it belongs, and not spread out in sweeping condemnation over the whole system of worthy and honorable business firms who have done no wrong to merit the odium of criminality to which the bill H. R. 29163 condemns them. So far as adulteration of seeds may be considered, I am in hearty accord with every effort to suppress the practice, and think the matter should be strangled at its inception, closely followed from its arrival at the customhouse, and not permitted to cover the country before measures are adopted for correction.

To be sure, the Government of the United States is a stiff competition, buying goods with our money and presenting same to our customers, who, as a rule, will not turn their money over to us when supplies are delivered at their door, all charges paid. This feature is an unjust discrimination, but we have become accustomed to it and adjusted the yoke.

No other industry, trade, or profession appears to attract the paternal solicitude or receives so much unmerited criticism as the selling of seeds from the United States Government. I earnestly solicit your careful consideration that justice may triumph.

Very respectfully,

FRANK S. PLATT.

W. H. SMALL & CO.,
Evansville, Ind., January 30, 1911.

Hon. JOHN W. BOEHNE,
House of Representatives, Washington, D. C.

DEAR SIR: Answering your valued favor January 26 and in further reference to pure-seed bill H. R. 29163, set for hearing on February 2, 1911, at 10 o'clock a. m., before the Committee on Interstate and Foreign Commerce, we would appreciate your kindness in presenting this communication to said committee as our objection to the bill in question as a whole, for the following reasons, which will endeavor to make brief:

First. This bill in our opinion covers entirely too broad a scope in an endeavor to regulate the sale or distribution of bulbs, vegetable and flower seeds combined with grasses, clovers, cereal, forage plants, and other agricultural seeds intended for seeding purposes. The average gardener or florist can take care of the noxious weed seed proposition with an ordinary hoe or spoon and other implements equally effective, and for this reason we believe that entirely separate laws should be passed governing the sale of bulbs, garden seeds, flower seeds, and grasses, clovers and other agricultural seeds.

Second. We being interested only in the marketing of grasses, clovers and other field seeds will offer no suggestions touching on the garden and flower seed trade; neither are we members of the American Seed Trade Association and do not know upon what lines they expect to combat the proposed bill in question. But are familiar with the facts that for many reasons, well known to the Hon. James R. Mann, chairman of the committee in question, other bills similar to the one now proposed did not meet with the approval of the seed-trade association and the seedsmen of the United States in general, for the one most important reason possibly overlooked by many, that the seedsman has no one to look to for absolute authority or protection from buyers, many of whom will take advantage of technicalities and slight variations of tests for purity and growth of seeds made by seedsmen's private laboratories, State experimental stations, and the tests made by the Agricultural Department, Bureau of Plant Industry at Washington, D. C.; it being a well-known fact that two or three tests can not be made from the same identical lot of seed and have each and all exactly conform with the other.

In further reference to the bill in question, we wish to say that we are heartily in sympathy with any proposition that will regulate the adulteration or misbranding of all agricultural seeds, and believe that all fair-minded seedsmen will join us in the same spirit; but in reference to section 4, second paragraph under adulteration defined in said pure-seed law, wish to call your attention to the fact that during some seasons, the seed of dodder is found in native clover and alfalfa seeds in more or less quantities. This clover and alfalfa seed of course has a legitimate value, regardless of the percentage of dodder, and to pass a law which would absolutely establish a certain percentage before it could be offered or exposed for sale, otherwise prohibited, would work a vital financial injury to the farmers in this community as well as elsewhere where their land has already been infected with dodder or other noxious weed seeds now defined in certain State pure-seed laws and prohibited for sale when found in agricultural seeds.

In our broad land, apparently, no man is restricted from taking poison with suicidal intent. We also have our opinion that there should be a legitimate value and a market found for anything in the way of agricultural seeds just as nature produces them, if a buyer can be found. But work on the consumer in an educational way and by law guarantee the farmer or consumer protection, and in any event, do not ask the seedsmen to make these guarantees they can not for many reasons, the principal one is, that they will not be recognized by the middle man or retail seedsman as authority, under certain conditions useless to explain, but well-known facts.

In proposing legislation that would cover the ground most effectively, we would suggest that the present Congress pass a law standardizing the grading of all clovers, grasses, and other agricultural seeds and to offer to "bag in bond" for the seedsmen or general public not over three distinct and separate grades of any one kind of clovers, grasses, or other agricultural seeds, and in no less quantities than 10 to 20 bags; all rules, regulations, and standards to be made by the Secretary of Agriculture, grades to be known as—

U. S. contract. Kind of seed ——. "Bagged in bond."

U. S. No. 2. Kind of seed ——. Bagged in bond.

U. S. No. 3. Kind of seed ——. Bagged in bond.

The Government should be compensated for making trial tests for seedsmen or individuals at a stated rate per sample where parties were desirous of knowing approximate grade, and if report was favorable toward passing certain grade that could be bagged in bond the seed should then be placed in warehouse under Government lock and key; sample carefully drawn by Government clerk forwarded to nearest station for final report. If passed as U. S. contract, U. S. No. 2, or U. S. No. 3, a certificate returned to Government clerk, who will see that each bag is properly tagged and each bag sealed by due authority. And for the maintenance of this law further revenue should be collected for making final tests, and the expense incurred to effect the proposed plan to bag in bond at a conservative rate per 100 pounds on all seeds graded. After final test and bags are sealed and tagged, certificate to be given owner for permanent file, and seed can then be released to owner and sold by grade or sample in the regular course of present marketing, but with assurance to the seedsman, retail dealer, and consumer that the grade has been authoritatively fixed.

Would also suggest that same law restrict all seedsmen to tag conspicuously each and every bag of seed sold or offered for sale that has not been bagged in bond with words as follows: "Grade not established by the U. S. Department of Agriculture," or words of equal effect.

We are convinced that a bill passed along the lines as aforementioned would be a very popular one and acceptable to most all seedsmen as well as with the retail dealers, farmers, and planters everywhere. There are many arguments in its favor which would be pleased to confer with you upon at any time. There, however, may be points about it that do not seem feasible with which we are not familiar, but a general outline of our thoughts are expressed herein, and if you find that any interest is taken by the committee on any point referred to or as a whole the writer will gladly arrange a conference with you whereby more details can be given.

In conclusion we are satisfied that a seed law along the plans which have outlined above would automatically regulate the distribution and prices of agricultural seeds, such as grasses and clovers, in a most satisfactory manner and still remain within the bounds of the natural law governed by supply and demand. Those who really wanted to purchase the best seed obtainable or an average good seed would know just what to demand, no matter where his location might be; and those who do not care and are willing to accept poor and inferior classes of seed for certain private reasons of their own and only willing to pay cheap price, they also can find without restriction just what they are looking for.

We thank you kindly for your attention and await any response from you on the subject.

Yours, very truly,

W. H. SMALL & Co.,
P. C. NEWLIN, *Secretary*.

BOSTON, MASS., *January 25, 1911.*

HON. ANDREW J. PETERS,

Committee on Interstate and Foreign Commerce, Washington, D. C.

DEAR SIR: The undersigned seed merchants of Boston, respectfully call your attention to a seed bill, H. R. 29163, now pending in your said committee, a hearing on which bill being set for February 2. While a delegation of seedsmen expect to appear at said hearing, it does not seem improper very briefly to call your attention to certain serious faults in the bill, as follows:

While section 1 affects "intentional" adulteration or misbranding of seeds, a practice we in no manner condone, and so indorse the section; yet, in section 8, omitting any such element of intention, our seeds may be seized, sold, or destroyed without our knowledge either as to such seizure or as to the prohibited mixtures.

Bulbs, vegetable, flower, and "other agricultural and horticultural seeds" should not be included in the same bill with the ordinary field seeds. The two classes are entirely separate both as to growth, sale, and use of the seed by the farmer. Notice that all modern seed legislation so considers. A regulation concerning one class (for example, lines 11-13, p. 3, or lines 21-23, p. 3, and clauses "third" and "fourth") is an impossible burden on the other class, except, of course, when the bill merely contemplates willful adulteration or misbranding.

Germination should be totally eliminated from the bill.

The truth of this is notable. Your committee in reporting the former Mann bill (H. R. 13835) to the House said, at page 2: "The test of seed often can not be made until it has been planted and the crop has been produced."

Also note that the Association of Official Seed Analysts (composed of the State seed analysts of many States), in its report accompanying, and approving a uniform State seed bill, says: "It is deemed inadvisable to include vitality until methods of making germination tests are satisfactorily worked out."

There are other objections which will probably be cited, but which this brief letter can not cover. We append suggested amendments to the bill.

Respectfully,

Joseph Breck & Sons (Corp.), per Chas. H. Breck, president; Fottler, Fiske, Rawson Co., by John Fottler, president; Ames Implement & Seed Co., W. H. Peckham, manager; R. & J. Farquhar & Co.; Thos. J. Grey Co., Jas. M. Gleason, treasurer; Hovey & Co.; Thomas W. Emerson Co., C. Leseur, treasurer; Fowle, Hibbard Co., by John W. White, president; Charles H. Stone & Co.

SUGGESTED AMENDMENTS TO BILL H. R. 29163.

Section 1. Strike out in lines 5, 6; and 11 references to "foreign country." Let the bill protect our country like the Canadian seed act.

Page 2, line 2, strike out "or otherwise."

Page 2, lines 7, 8, strike out "or be imprisoned not exceeding one year, or both, in the discretion of the court."

Section 3. Strike out all vegetable, flower, and other agricultural and horticultural seeds.

Also in bill strike out "bulbs."

Section 4. Raise percentage of 3 per cent to 3 per cent except in case of yellow trefoil in red clover.

Page 3, line 12, insert between the words "variety" and "contain" the words "to the seller's or shipper's knowledge." But if vegetable, flower, etc., seeds and bulbs are stricken from bill this amendment not necessary..

Page 3, line 17, after the word "giving" strike out rest of sentence and insert the words "the approximate amount of said seed in the bulk or package."

Page 3, lines 21-23, after word "respectively," strike out semicolon and insert period and strike out the clause "or * * * purposes."

Pages 3 and 4, strike out entire clause styled "third."

Section 5. Page 4, lines 18-20, strike out entire sentence and insert: "When seeds of one kind or variety, distinguishable by their appearance, shall be offered for sale under the name of another kind or variety of seed: *Provided*, That nothing in this act shall be construed to require any dealer in or growers of seeds to discontinue the use of any name applied to a kind or variety of seeds so used and applied prior to the passage of this act."

Page 4, line 22, between words "and" and "correctly," insert the word "approximately."

Page 5, lines 4 and 5, between words "shall" and "bear," insert the words "to the seller's or shipper's knowledge."

Section 7. Strike out guaranty and state "name and address of former seller," as in the Canadian act.

Section 8. Strike out this entire section, or if this not possible amend as follows:

Page 7, line 14, between words "District" and "the," insert "in which said seeds are offered for sale."

Page 7, line 17, between words "except" and "that," insert the words "that notices of such seizure shall be served by the marshal to whom the monition in the libel proceedings has been delivered, on the owner, consignor, or consignee of said seeds, either by actual delivery to said person or persons or by registered letter, and immediately after seizure of the seeds, and the return of the marshal on said monition shall state that such personal or written notices were duly served, and except."

Section 9. Page 8, lines 8-10, strike out beginning with "or" and ending with "purposes."

Section 10. Page 9, line 13, between "deemed" and "to" insert the words "prima facie."

The bill now demands a guaranty against the willful or innocent mistakes of an employee. A dishonest employee could ruin a seedsman. By the amendment an opportunity is given to show a good defense. The Canadian act does this.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, February 1, 1911.

HON. JAMES R. MANN,
House of Representatives.

MY DEAR MR. MANN: I received the inclosed resolutions from the Association of Official Seed Analysts, and thought the matter of sufficient importance to bring to the attention of Chairman Scott of the Committee on Agriculture. He informs me that a bill directly covering this subject is now under consideration by the Committee on Interstate and Foreign Commerce, and suggests that I refer the resolutions to you. Accordingly I inclose them herewith.

Very truly, yours,

JAMES WILSON, *Secretary.*

RESOLUTION ADOPTED AT THE THIRD ANNUAL MEETING OF THE ASSOCIATION OF OFFICIAL SEED ANALYSTS, HELD NOVEMBER 14-15, 1910, AT WASHINGTON, D. C.

Whereas Canada has a strict seed-control law which prohibits the sale in that country of low-grade seed, but specifically provides for its export; and

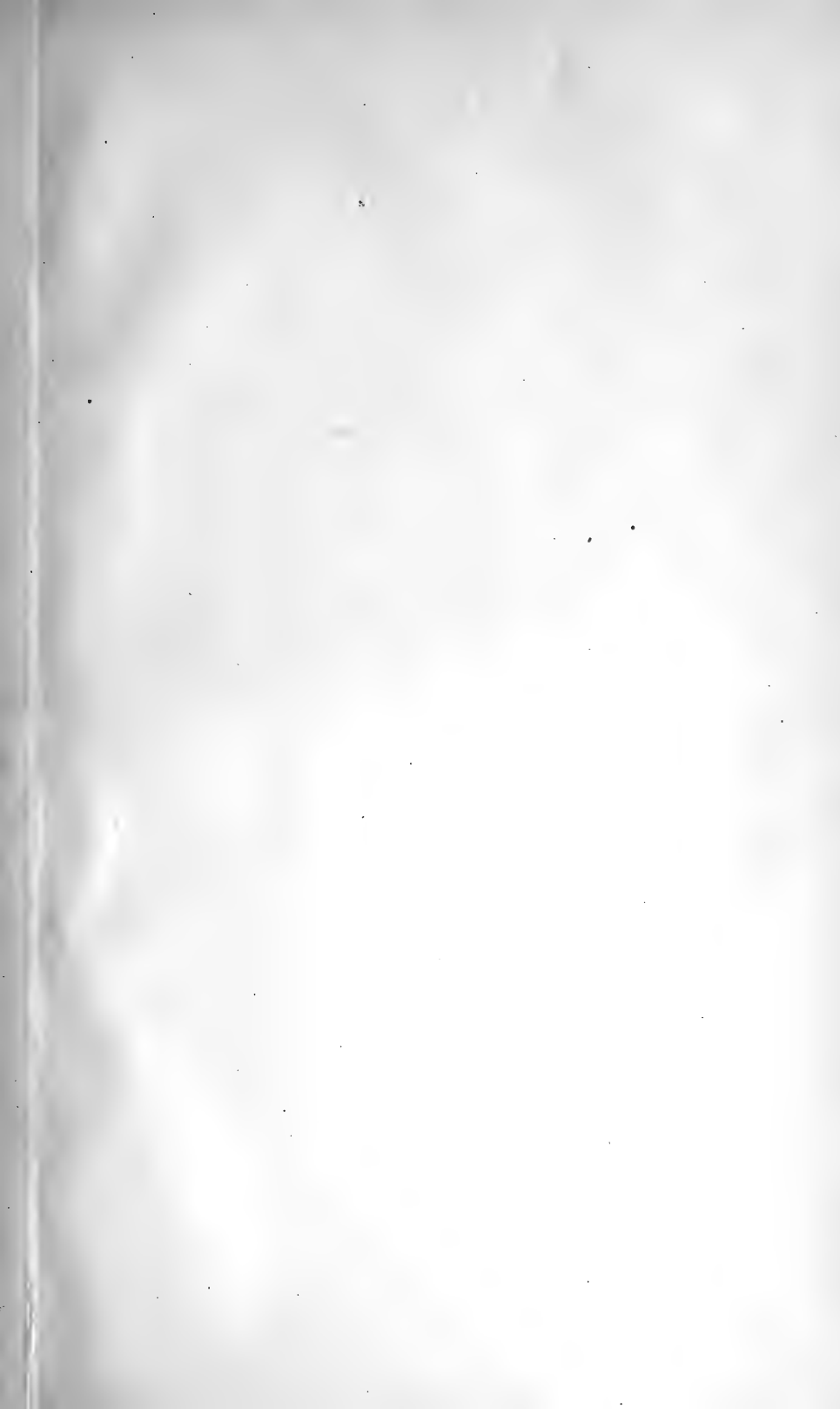
Whereas France and the Argentine Republic forbid the introduction into these countries of clover and alfalfa seed containing seeds of dodder; and

Whereas the conditions in Germany, Austria, Switzerland, Belgium, Holland, Denmark, Norway, and Sweden are such that large quantities of low-grade and worthless seed, for which there is no ready local market, are collected in the large seed-handling centers for export; and whenever the price of clover and alfalfa seed in this country is high large amounts of such low-grade European seed are imported for the purpose of mixing with other seed in order to create low grades for sale in American markets; and

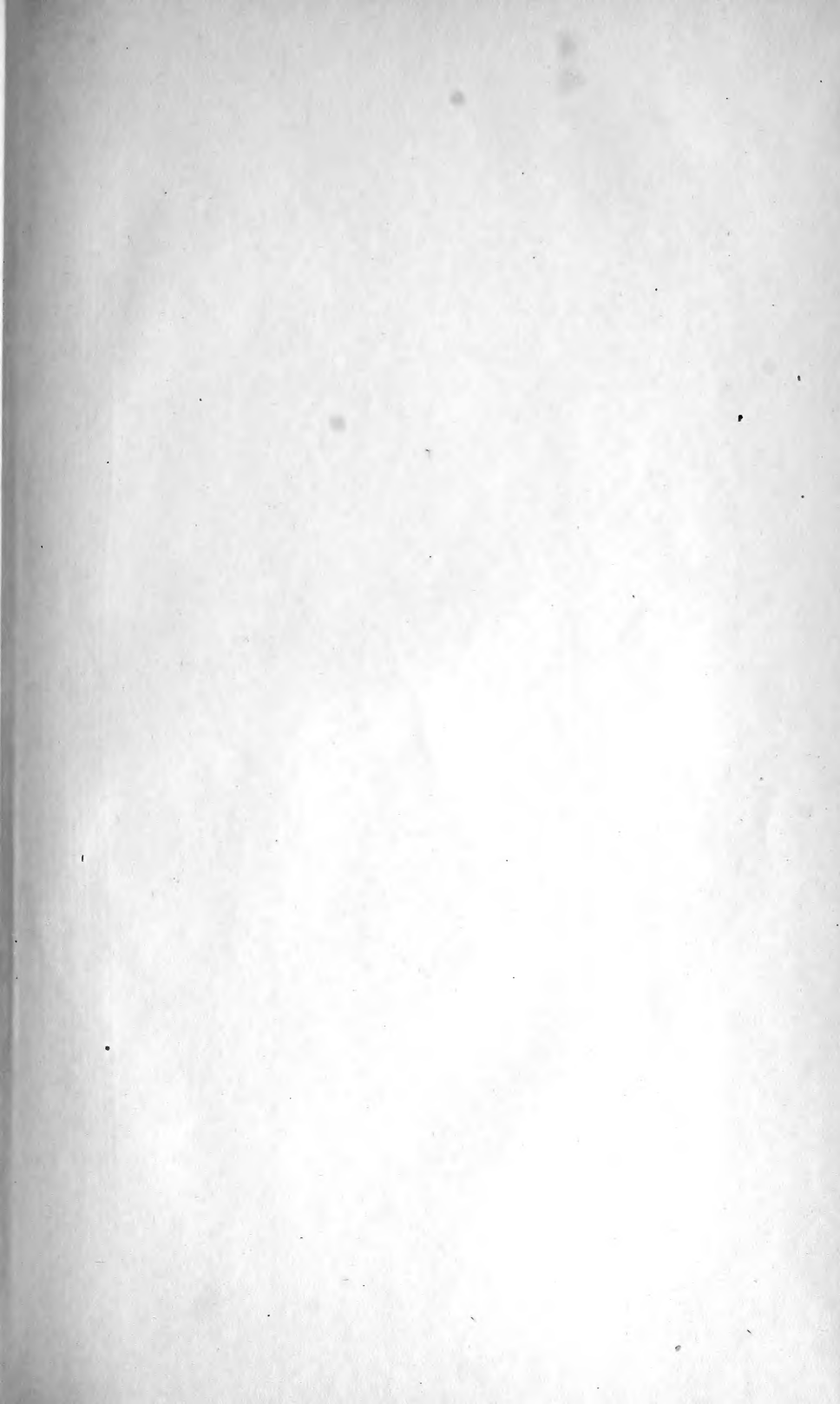
Whereas we believe the introduction into this country of this class of seeds is a positive menace to our agriculture: Therefore, be it

Resolved, That the Association of Official Seed Analysts favors the immediate passage of such legislation as may be necessary to prevent the introduction into the United States of forage-plant seeds containing such large proportions of weed seeds or dead seeds or other matter that they are of little or no value for agricultural purposes.











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